

MINUTES OF THE MEETING
OF
THE SPECIAL COMMISSION ON NARCOTICS

STATE BUILDING

LOS ANGELES, CALIFORNIA

MAY 4, 1960

PRESIDING: Mr. Harry M. Kimball

TIME: 10:00 A.M.

PRESENT: Mr. Harry M. Kimball, Chairman
Mr. Walter Binns, Member
Mr. John Storer, Member

Mr. Arthur L. Alarcon, Project Director

A. Lamont Smith, D. P. A.
Executive Director, Board of Corrections

and

Edmund G. Brown, Governor

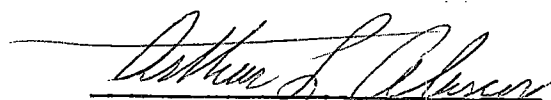
Mr. Cecil Poole, Clemency and Extradition
Secretary to Governor Brown

The Commission discussed with Governor Brown, the proper scope of its work.

The Governor stated he wanted a thorough investigation of all phases of the narcotics problem, "letting the chips fall where they may." The Governor also requested that a special interim report be made to him in December containing any recommendations requiring legislative action.

The meeting was adjourned at 2:30 P.M.

Respectfully submitted,



Arthur L. Alarcon

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and

Edmund G. Brown, Governor
Cecil Poole, Clemency and Extradition Secretary
to Governor Brown

Chairman Kimball introduced Arthur L. Alarcon as the person appointed by Richard A. McGee, Director of the Department of Corrections, on May 2, 1960, upon the recommendation of Governor Brown, to serve as the Project Director of the Special Commission on Narcotics, subject to the confirmation and approval of the Commission. After appropriate consideration, the Commission, by consensus, voiced its approval of the appointment.

Chairman Kimball stated that the purpose of the meeting was to determine the scope of the work of the Commission, within the limits of the Executive Order creating the Commission, and then to meet with the Governor and advise him as to the Commission's understanding of the nature of its responsibilities.

Dr. A. Lamont Smith distributed to the Commission copies of the report of the Project Committee on the Use of Narcotics of the Community Council of Greater New York.

The members of the Commission agreed that the statement of policy contained in the forward was an excellent statement of the Commission's concept of the scope of its work.

"To study problems in all age groups; to review and make recommendations regarding relevant laws; proposed legislation and needs; promote the evaluation of existing treatment facilities and recommend adequate treatment programs; continue to develop preventive measures and to foster community-wide education for prevention."

The Commission felt that in addition to the goals set forth by the New York group, preventative measures, medical treatment followed by a long period of supervision and control, and nation-wide education should be strongly stressed as a part of our study program.

Chairman Kimball then suggested that the Governor be advised as to the nature of this policy statement of the New York group and the additional suggestions of the Commission concerning the work to be done by it.

At 11:15 a.m. the Commission was joined by the Governor, and his Clemency and Extradition Secretary, Cecil Poole.

Chairman Kimball then advised the Governor that the Commission's understanding as to the scope of its work is as follows:

1. To examine our present statutes in the field of narcotics, especially with reference to punishment, to determine if these laws are adequate, and, if not, to recommend appropriate changes.
2. To determine what effect the Exclusionary Rule has had on the efforts of law enforcement officers to combat the menace of narcotics; for example, how many narcotics law offenders are not filed on because of the Cahan-Priestly cases and therefore such instances would not be reflected statistically.
3. To determine whether an exception to the Exclusionary Rule, as to narcotics cases only, is necessary to assist law enforcement, and whether such an exception would be constitutional.
4. To determine the effect of the Priestly decision on the enforcement of our narcotics laws and to study the Federal rules with reference to the disclosure of the names of informants.
5. To study the sentences meted out by the Superior Courts in narcotics cases and the question of whether mandatory prison sentences should be substituted for the court's present discretionary right to grant probation.
6. To study the current practices in the handling of narcotics law offenders by the probation departments and the nature of follow-up programs and the degree of control and supervision authorized and presently exercised (including the use of Nalline).
7. To study the handling of narcotics law offenders by the Adult Authority including the length of time served, and the nature of the supervision and control of narcotics addicts while on parole.
8. To study the efficacy of the use of Nalline as a means of preventing re-addiction for addicts on probation or parole.
9. To study the necessity of authorizing, by statute, an inspection of vehicles, and all other means of transportation, by law enforcement officers without a warrant or probable cause, such as the authority given to inspectors for the State Fish and Game Commission, or perhaps by making a consent to such a search a prerequisite to the licensing of such means of transportation.
10. To study the feasibility of an expanded hospital treatment program for addicts coupled with a long period of supervision and control, with Nalline or any other method which may act to dissuade re-addiction.

11. To establish and maintain close contact with the New York authorities who are responsible for the carrying into effect the recently enacted legislation establishing a hospital treatment program for narcotics addicts.
12. To request of the President that a White House Conference on Narcotics be called.
13. To ask the President to declare 1961 as "Fight Narcotics Year", and to enlist the aid of all civic, fraternal, and service organizations in a massive nation-wide campaign of education for the prevention and control of narcotics addiction, and the elimination of illegal narcotics traffic.
14. To study the advisability of seeking to promote further cooperation between the United States and the United Nations in controlling the manufacture and sale of illegal narcotics.
15. To study the advisability of requesting that the legislature furnish funds for continuous research in the care, treatment and cure of narcotics addicts, in conjunction with an expanded hospital treatment and control program.
16. To study the present laws with reference to education in the public schools on the subject of narcotics.

Governor Brown stated the Commission had correctly interpreted his objectives in creating the Special Commission on Narcotics.

At 11:35 A.M. the Commission went to the Governor's Office where a press conference was held at which time the Governor, Chairman Kimball, and Arthur L. Alarcon outlined the scope of the Commission's work as set forth above.


The Governor stated he wanted a thorough investigation of all phases of the narcotics problem. He stated he wanted the Commission to make an objective, impartial study, letting the chips fall where they may. The Governor stated he wanted to know if new legislation was necessary with reference to penalties, the Exclusionary Rule, and the treatment of narcotics addicts. The Governor promised the Commission the use of all the facilities of the State and its various departments.

At 12:15 the Commission lunched with the Governor at the Biltmore Hotel.

At 2:00 P.M. a further press conference was held with the Governor covering substantially the same matters as above.

At 2:30 P.M. the Commission adjourned its meeting after Chairman Kimball instructed the Project Director to meet with him in two weeks to plan the next meeting.

Respectfully submitted,



Arthur L. Alarcon
Project Director

AGENDA FOR THE JUNE 8, 1960 MEETING

OF

CALIFORNIA SPECIAL STUDY COMMISSION

ON NARCOTICS

KONA KAI CLUB

SAN DIEGO, CALIFORNIA

I. Correspondence.

- a. Letter to the President
- b. Reply by David Kendall, Special Counsel to the President
- c. Letter to Senators Kuchel and Engle
- d. Letter re UCLA Conference
- e. Letter re Sylvia Beaudry

II. Brief review of work of Project Director.

[Report to Gov 3 or 4 weeks
because of pressure]

III. Chief A. E. Jansen's remarks re San Diego-Border problem.

IV. Discussion of H.R. 12120 and H.R. 11329.

V. Discussion concerning series of meetings during the summer with committees from the California Medical Association, California State Bar, District Attorneys' Association, etc.

MINUTES OF THE MEETING
OF
THE SPECIAL STUDY COMMISSION ON NARCOTICS

KONA KAI CLUB

SAN DIEGO, CALIFORNIA

JUNE 7, 1960

PRESIDING: Mr. Harry M. Kimball

TIME: 10:00 A.M.

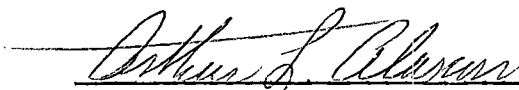
PRESENT: Mr. Harry M. Kimball, Chairman
Mr. Walter Binns, Member
Chief A. E. Jansen, Member

Mr. Arthur L. Alarcon, Project Director

The Commission discussed the necessity for a White House Conference and correspondence with the President concerning such a meeting. (Letter from David W. Kendall, Special Counsel to the President, dated May 27, 1960).

The Commission discussed various other problems concerning the narcotics traffic in California and adjourned its meeting at 4:00 P.M.

Respectfully submitted,



Arthur L. Alarcon
Project Director

ALA:ssc

MINUTES OF THE MEETING
OF
THE SPECIAL STUDY COMMISSION ON NARCOTICS

KONA KAI CLUB

SAN DIEGO, CALIFORNIA

JUNE 7, 1960

Presiding: Mr. Harry M. Kimball

Time: 10 A.M.

Present: Mr. Harry M. Kimball, Chairman
Mr. Walter Binns, Esquire, Member
Chief A. E. Jansen, Member
Mr. Arthur L. Alarcon, Project Director

Chairman Kimball advised the Commission members that pursuant to the request of the Commission at its prior meeting, a letter had been sent to the President urging a White House Conference concerning the illegal traffic in narcotics. The reply to this letter, dated May 27, 1960, and signed by David W. Kendall as Special Counsel to the President, was read and copies were distributed. Chairman Kimball pointed out that the White House recognizes that the narcotic problem is most serious in New York and California. Also, the letter indicates that a medical and rehabilitation program is a necessary part of the solution to the narcotic traffic and addiction problem.

Chairman Kimball distributed copies of letters to Senators Kuchel and Engle which requested that they lend their assistance to bringing about a White House Conference.

The Chairman then asked the Commission to consider the merits of a bill introduced by Congressman Victor Anfuso of New York, H.R. 12120, which provides for grants in aid for the payment of half of the cost per bed patient for the treatment of narcotic drug addicts in closed institutions. After discussion, Chief Jansen moved that the Commission urge the Governor to support H.R. 12120. This motion was seconded by Walter Binns and was carried unanimously.

The Project Director was instructed to advise the Governor that the Commission felt that one of the steps which must be taken in the overall program to combat the narcotics problem is a hospital treatment program for narcotic addicts followed by a long period of mandatory supervision and control. The Commission felt that the Governor should be advised that from the study made by the Commission to date, the Commission feels that the present hospital programs (both State and Federal) for narcotic addicts are inadequate in that they do not provide for a mandatory period of supervision and control following release from the hospital to prevent re-addiction and to assist the addict in readjusting to the demands of society. Such a period of exclusion or quarantine followed by close supervision and control (including the use of antinarcotic drugs, such as Nalline) would reduce the addict population and, in addition, take addict-peddlers out of the market, thereby cutting down on the number of new addicts who might be seduced into addiction by persons seeking to support their narcotic habit by selling narcotics. The Commission

also asked that the Governor be advised that the New York authorities, who were instrumental in setting up a hospital treatment program had instigated Congressman Anfuso's proposed legislation, H.R. 12120. In sum, the Commission requested that the Governor be asked to support Congressman Anfuso's bill in every way possible, since it is the present feeling of the Commission that California should increase its hospital treatment program. If we can look to the Federal Government to pay half of the cost per bed patient for such a program, the legislature and the taxpayer would more readily accept it.

The Commission pointed out that our laws, with reference to the commitment of narcotic addicts, might need revision to qualify California for such a grant-in-aid as provided by H.R. 12120, but that such laws would have to be amended in any event to make provision for a long period of supervision and control for civilly committed narcotic addicts.

Pursuant to Mr. Binns' request, a report was obtained from the Clerk of the Municipal Court of the Los Angeles Judicial District, concerning the number of search warrants filed in the years 1955 through 1960 and to the present date.

Chief Jansen observed that in San Diego, the District Attorney's Office had done an excellent job of simplifying the paper work and procedure involved in the obtaining of a search warrant. The Chief stated that a municipal judge is always available to issue a search warrant in San Diego. The District Attorney has provided the police department with sample affidavit forms covering many types of situations which might arise. With these forms, an officer, whenever necessary, may write out his own affidavit in long hand by using the sample affidavit as a guide. He may then go directly to the home of a municipal judge, if necessary, to get his warrant without delay.

The Commission directed the Project Director to communicate with Alameda, San Diego and San Francisco Counties to determine the number of search warrants issued during the years 1955 through 1960 and also their search warrant procedures.

Chairman Kimball suggested that a series of meetings should be held with representatives selected by the following:

1. The California Medical Association
2. The California State Bar Association
3. The California Peace Officers' Association
4. The California District Attorneys' Association
5. The Department of Corrections
6. The California Conference of Judges.

These meetings would be to assist the Commission in formulating its recommendations to the Governor. This proposal was unanimously adopted by the Commission.

The Project Director was directed to communicate with these groups to advise them of the Commission's request and to establish a time schedule for these meetings.

The Commission requested that Fred Finsley of the Adult Authority be invited to attend the next meeting to discuss present penalties and the attitude of the Adult Authority as to a change in the time when a prisoner is eligible for parole. Also, some of the members of the Commission pointed out that some judges receive

have commented that they receive letters from the Adult Authority asking if they wish to reconsider a finding of habitual criminality. These judges state that they feel that such a letter constitutes a form of pressure to induce reconsideration in favor of the prisoner.

The Commission further requested that copies of the legislation proposed by law enforcement agencies for the 1959 legislative session be obtained by the next meeting from Bob Fort and also, that his opinion should be solicited as to why these bills were not passed nor acted upon.

Chief Jansen commented that the most important work of the Commission should be to determine what the legislature should be asked to do with reference to penalties, the Exclusionary Rule, and the necessity for the disclosure of the identity of informants.

Mr. Binns then stated that the Governor should be given a report in December, primarily concerning the Commission's recommendations for legislative action. The Commission's final report to be filed in June 1961 should cover any additional recommendations, suggestions and comments concerning existing methods, procedures and policies affecting the narcotics problem.

Mr. Binns requested that research be made into a proposed change in the Vehicle Code which would give any law enforcement agency the right to inspect a car for contraband as a necessary part of the privilege to operate a vehicle, based on the theory that while a man's home may be his castle, his automobile is not.

It was also suggested that a statute might be drafted which would let the trial judge determine, in chambers, if the disclosure of the informant's name would be helpful to the defendant which would be analogous to the present procedure used in the Federal Courts concerning reports by informers.

The following materials were distributed at the meeting:

1. A copy of a letter received from David W. Kendall of the President's Staff.
2. A copy of H.R. 12120.
3. Copies of letters to Senators Kuchel and Engle.
4. A copy of the statement of Sheriff Peter J. Pitchess to the Assembly Criminal Law and Procedure Committee dated May 4, 1960.
5. A Compilation of Recommendations by Various Committees and Groups to Reduce the Narcotics Problem.
6. Copies of the Joint Report and Recommendations of the District Attorney et al on amendments to the State Narcotic Laws.
7. A copy of a letter from the Clerk of the Municipal Court of the Los Angeles Judicial District concerning search warrants.
8. A copy of a column by Paul Coates.

Respectfully submitted,

Arthur L. Alarcon

Arthur L. Alarcon
Project Director

MINUTES OF THE MEETING
OF
THE SPECIAL STUDY COMMISSION ON NARCOTICS

RICKEY'S STUDIO INN MOTEL
4219 EL CAMINO REAL
PALO ALTO, CALIFORNIA

JUNE 30, 1960

PRESIDING: Mr. Harry M. Kimball

TIME: 10:00 A.M.

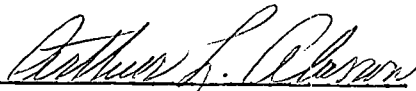
PRESENT: Mr. Harry M. Kimball, Chairman
Mr. John E. Storer, Member
Mr. Walter Binns, Member
Mr. Robert A. Neeb, Jr., Member

Mr. Arthur L. Alarcon, Project Director

The Commission received a thorough briefing from Mr. Fred Finsley, the Chairman of the Adult Authority, concerning the policies of the Adult Authority in fixing prison terms for narcotics law violators.

The meeting was adjourned at 5:00 P.M.

Respectfully submitted,



Arthur L. Alarcon
Project Director

ALA:ssc

MINUTES OF THE MEETING
OF
THE SPECIAL STUDY COMMISSION ON NARCOTICS

RICKEY'S STUDIO INN MOTEL
4219 EL CAMINO REAL
PALO ALTO, CALIFORNIA

JUNE 29, 1960

Presiding: Mr. Harry M. Kimball Time: 10 A.M.

Present: / Mr. Harry M. Kimball, Chairman
/ Mr. John E. Storer, Member
/ Mr. Walter Binns, Member
/ Mr. Robert Neeb, Jr., Member
/ Mr. Arthur L. Alarcon, Project Director

The Project Director exhibited and discussed the correspondence received by the Commission since the last meeting, including:

1. A letter from the Governor dated June 10, 1960, enclosing a copy of a memorandum concerning wire tapping from Paul Ziffren, together with an opinion written by Judge Hoffstader of the New York Supreme Court on this subject.
2. A letter dated June 13, 1960 from Thomas H. Kuchel in reply to a letter from the Commission concerning his support for a White House Conference. Senator Kuchel stated he would endorse this measure and he would personally urge the Secretary of the Treasury to consider it favorably.
3. A letter from Clair Engle dated June 20, 1960, in reply to a letter from the Commission, in which the Senator states that he introduced S. Res. 284 which calls for a White House Conference. (Note: Senator Engle's letter points out that the bill has been held up due to the illness of the Chairman but that he is hopeful that action will be taken very soon.)
4. A letter from Congressman Donald L. Jackson dated June 20, 1960 requesting favorable consideration for the appointment of Sylvia L. Beaudry for a position on the Commission's staff.
5. A letter from the San Diego District Attorney's Office dated June 14, 1960, in response to a request from the Commission for information concerning the search warrant procedure followed by the San Diego District Attorney's Office. (Enclosed with the letter was a copy of instructions prepared by the San Diego District Attorney's Office for the use of police officers in the field so that in emergency situations the officer might draft his own affidavit for a search warrant in long hand and then contact a judge without the necessity for and the delay in contacting the District Attorney's office.)
6. A letter dated June 14, 1960 from the Commission to Keith Sorensen, District Attorney, San Mateo, in his capacity as president of the California District Attorneys' Association requesting that he appoint a committee to meet with the Commission. (No reply has been received to date to this letter.)

7. A copy of a letter dated June 3, 1960 from the County Clerk of San Diego County to Cecil Poole, together with a resolution of the San Diego County Board of Supervisors urging the appointment of five (5) additional agents to the San Diego Office of the Bureau of Narcotics Enforcement.
8. A letter dated June 21, 1960 from the office of Robert O. Fort (Sacramento representative of the Peace Officers' Association) in reply to a letter from the Commission stating that Mr. Fort was out of town, but upon his return would communicate with the Commission concerning its request for copies of the legislative program of the various law enforcement agencies represented by Mr. Fort.
9. A letter from George H. White, District Supervisor, Bureau of Narcotics, San Francisco Office dated June 21, 1960, in reply to a letter from the Commission enclosing two (2) copies of a brochure listing the penalty provisions for narcotics violations throughout the United States. (Chairman Kimball requested that copies be made of this brochure for each member of the Commission.)

The Project Director reported that pursuant to the request of the Commission at its previous meeting, letters had been sent to a number of representative municipal court districts throughout the State requesting a report as to the number of search warrants which had been issued within their jurisdiction since 1955. Replies have been received to date from the Los Angeles Judicial District, Redwood City, Oakland-Piedmont and Long Beach.

The Commission was advised by the Project Director that the Governor's Office through Cecil Poole had been contacted with reference to Congressman Victor L. Anfuso's bill. Mr. Poole was advised that the Commission felt that this bill should be supported by the Governor. Mr. Poole promised to arrange for a meeting with the Governor. The Commission was advised that to date, the Project Director had been unable to meet with the Governor because of the Governor's calendar. Chairman Kimball stated that the Governor should be invited to meet with the entire Commission at which time the Commission could discuss with him the merits of Congressman Anfuso's proposed statute.

Chairman Kimball announced to the Commission that he had received an invitation from A. Lamont Smith of the Department of Corrections inviting the Commission to attend a meeting of the Board of Corrections, July 29, 1960 in San Francisco. The Project Director was instructed to attend this meeting and to prepare for the meeting a brief statement of the goals and objectives of the Commission and the nature of some of the meetings which the Commission is going to schedule. The Chairman then introduced Mr. Fred Finsley, Chairman of the Adult Authority and asked him to discuss the thinking of the Adult Authority with reference to the handling of prisoners convicted of narcotics violations, including the policy of the Adult Authority with reference to parole, the necessity for control and supervision after release from prison and generally what was being done by way of treatment and rehabilitation for the addict-parolee. Mr. Finsley invited the Commission to sit with the Adult Authority at any of its meetings at any institution throughout the State of California as many times as convenient to the Commission so that the Commission could be fully cognizant of the work of the Adult Authority. Mr. Finsley stated that approximately 15% of the prison population, which is now about 20,000, is narcotic connected. Mr. Finsley stated that there were a number of misconceptions about the attitude of the Adult Authority with reference to narcotic law violations and the handling of prisoners convicted of such offenses due to certain events which

had occurred. He stated that prior to 1951 all narcotic penalties were the same - zero to six years. The Adult Authority felt that these penalties were inadequate and in 1951 sponsored legislation to raise the penalties for narcotics offenses. In 1953 the legislature again raised the penalties for narcotics offenses but the Adult Authority did not sponsor these measures although it supported them before the legislature. Since 1953 the Adult Authority has neither supported nor sponsored nor taken a position with reference to new penalties because it is felt by the Adult Authority that there has not been sufficient time for these new penalties (the ones enacted in 1951 and 1953) to be fully tested to determine their adequacy. Mr. Finsley stated that there are still people in prison sentenced under the 1951 and 1953 laws and for this reason the Adult Authority is still waiting to see the effect of these laws. Mr. Finsley stated that at the present time the Adult Authority feels that our laws with reference to narcotics violations are adequate "across the board". Mr. Finsley stated that of those prisoners in prison for violations of the narcotics laws, four out of five are in for possession and one out of five for sale.

Mr. Finsley stated that there are seven (7) members of the Adult Authority and at the present time they are assisted by one hearing representative. He stated that due to the heavy work load of the Adult Authority they have established four hearing lines. Each hearing line consists of two (2) members or one (1) member and a hearing representative. He stated that because there are four hearing lines working independently of each other and throughout the State of California the Adult Authority in March 1960 adopted guides for the processing of applications for parole of narcotics law violators so that all of the members of the Adult Authority would be treating these offenders about the same way. Mr. Finsley stated that these guides were not hard and fast rules, but were set up for purposes of uniformity. These guides apply only to prisoners convicted of narcotics law violations involving heroin or any other opium derivatives. He outlined the guides followed by the Adult Authority as follows:

1. Sale to minors. (Five years to life)
 - a. Eligible parole date - 20 months.
 - b. Adult Authority Guide Minimum - Three years followed by 5 years on parole.
2. Sale to minor with a prior conviction of a felony - narcotics offense.
 - a. Eligible parole date - Three years 4 months.
 - b. Adult Authority Guide Minimum - Five years followed by 5 years on parole.
3. Possession. (One to 10 years)
 - a. Eligible parole date - Six months.
 - b. Adult Authority Guide Minimum - Two years.

4. Possession with a prior conviction of a felony - narcotics offense. - (Two to 20 years).
 - a. Eligible parole date - Eight months.
 - b. Adult Authority Guide Minimum - Four years followed by 5 years on parole.
5. Sale of narcotics (Five years to life).
 - a. Eligible parole date - 20 months.
 - b. Adult Authority Guide Minimum - Three years followed by 5 years on parole.
6. Sale of narcotics with a prior felony - narcotic offense. - (Ten years to life).
 - a. Eligible parole date - Three years 4 months.
 - b. Adult Authority Guide Minimum - Five years followed by 5 years on parole.

Chairman Kimball asked Mr. Finsley when this guide had been adopted. Mr. Finsley stated that the guide had been adopted in March 1960. Mr. Finsley was asked if prior to the adoption of the Adult Authority Minimum Guide for narcotics offenses whether the minimum time served by a prisoner was less. Mr. Finsley replied that it was slightly less than the minimum guide adopted.

Mr. Finsley stated that with reference to punishment of the non-using peddler, the Adult Authority had no compunction as to the length of time served and the severity of punishment. In fact, he stated he did not object to a 20 year minimum for such a prisoner although he was not advocating it. Mr. Finsley stated that the non-using peddler was a worse offender than the addict - peddler because the non-user was preying on society for profit and in some cases was connected with the rackets. Mr. Binns asked Mr. Finsley whether it was true that the addict-peddler was more likely to repeat his criminal conduct after release from prison because of the fact that he was an addict and would become readdicted and return to pushing narcotics to support his habit. Mr. Finsley stated that this possibly was true and that the non-using peddlers chances for rehabilitation could be better although he doubted it because of the type of person involved. Such a person (non-using peddler) would probably regress to the rackets and other easy money involved in the sale of narcotics. Mr. Finsley stated that the State institutions do not get the large peddlers of heroin, or even the middle man. He stated that the State prisons get almost exclusively "the victims of narcotics". Mr. Finsley stated that the Adult Authority felt that the non-using peddler was a much worse menace to society than the addict-peddler.

The Commission asked Mr. Finsley to discuss the type of information received by the Adult Authority concerning the background of each prisoner sent to State Prison. Mr. Finsley stated that each prisoner committed to the Department of Corrections spent from sixty to seventy days at the Chino or Vacaville Guidance Reception Centers. At the Guidance Reception Center each prisoner is tested by psychologists and psychiatrists. His life history is thoroughly investigated so

that a complete sociological and psychological background picture is obtained. The arrest records are also consulted. The Guidance Reception Center also solicits information from all persons connected with the prisoner's case, including the police and the District Attorney. Mr. Finsley stated that the Adult Authority was handicapped because the Los Angeles Police Department had recently decided not to provide them with police reports, thereby depriving the Adult Authority of valuable information concerning the criminal background of each prisoner from the City of Los Angeles. Mr. Finsley stated that the Los Angeles Police Department had stated it did not have the funds to continue to supply such reports. Chairman Kimball stated that he believed that each law enforcement agency should make up a parole report as to the background of the prisoner for the assistance of the court and the Adult Authority similar to the report made by the Federal Bureau of Investigation for the use of the United States Attorney. This report should contain information about other cases which had been dropped, prior convictions which were not before the court and such details as the fact that the prisoner had never worked, etc. Mr. Finsley suggested that the Commission might check with the Chino Guidance Center to see to what extent the lack of police reports has affected its work. Mr. Storer stated to Mr. Finsley that the Bureau of Narcotics Enforcement has reports available for the use of the Chino Guidance Center but to his knowledge, the Department of Corrections has not requested copies of these reports. Mr. Storer pointed out that one prisoner, Alfred King, was released from Folsom as rehabilitated and within a short space of time was involved in a large sale of narcotics. Mr. Binns requested that all of the facts about Alfred King be investigated by the Commission staff to find out what information the Department of Corrections had on Alfred King prior to releasing him on parole.

Mr. Storer stated that he would like to see a law enacted making it mandatory for the Adult Authority to provide forms to be filled out by the arresting agencies in order to provide full background information, including hearsay information from other police agencies, the entire arrest record of the prisoner, etc.

Mr. Finsley stated that the Adult Authority gets some information as to other crimes committed by the prisoner from the 1203 Form (the form required to be filled out by the District Attorney), but does not get the full record of arrests and other involvements of the prisoner. Chairman Kimball stated it would be worth the cost for the investigating officer to spend one more day on the case to provide a full report for the Department of Corrections so that they could have the full background of the prisoner. Mr. Neeb asked Mr. Finsley if the prisoner's statements in mitigation were checked out by the Adult Authority. Mr. Finsley replied that all persons connected with the case were sent letters requesting information about the prisoner and that the prisoner's statements were investigated. Mr. Finsley stated that a cumulative study is prepared as to each prisoner for the use of the Adult Authority. He stated that it is possible that some information which would appear in the prisoner's entire file might possibly be overlooked if the hearing officer were to rely solely on the cumulative summary. Mr. Finsley stated however, that the Clerk of the Adult Authority is charged with the duty of bringing to the attention of the Board any information, report or letter which might not appear on the cumulative summary but which was a part of the additional records contained in the prisoner's file. Mr. Neeb asked Mr. Finsley if there was any danger that derogatory letters from persons seeking vengeance against the prisoner might cause an injustice if not investigated. Mr. Finsley stated that such letters making charges against

a prisoner were investigated to see if they were spurious or based on fact. Mr. Finsley stated that to his knowledge there was no effective treatment for narcotic addiction. He stated that at one time the Department of Corrections had a special group therapy program restricted to narcotic addicts but this program had now been abandoned. Mr. Finsley stated that the only program in the prisons for narcotic addicts was through group therapy carried on in groups composed of prisoners of all types and not restricted to narcotic addicts. He stated there was also Narcotics Anonymous and public speaking groups designed to help the prisoner eliminate his emotional problems and especially his feelings of inferiority. Mr. Storer pointed out that there was available under our present laws in California (Welfare and Institutions Code, Section 5350 to 5355) a procedure by which an addict may be committed to any one of nine of our fifteen State hospitals to be kept therein for a period of from three months to two years. After a three month minimum, the Director may release such a person where the Director indicates that the addict is cured.

Mr. Storer pointed out that the State hospitals discourage the use of State facilities except for voluntary cases because they do not like addicts who are forced to go to these institutions under a court commitment as they feel that such persons are not amenable to treatment.

Mr. Finsley stated that prisoners sentenced to consecutive sentences must serve at least two years under a resolution of the Adult Authority. He pointed out that a prisoner sentenced to two consecutive sentences of five years to life has to have served at least three years and four months under our present laws before he would be eligible for parole.

Mr. Storer pointed out that few prisoners are convicted of sale to a minor because when law enforcement agencies find out someone is peddling to minors they send out an undercover operator who is young in appearance to make a purchase and the peddler is then convicted of a sale to the officer. Mr. Storer stated it is difficult to get juveniles as witnesses against peddlers because juvenile authorities do not want them to so testify because it is dangerous for them. Furthermore, minors cannot be used to make a buy for the police.

Mr. Finsley stated that out of ten convictions of sale, only one is through sale for profit, the remainder are furnishing cases. Mr. Finsley further stated that at the time when the prisoner comes up for a parole hearing a notice is sent to the District Attorney but no such notice is sent to the prisoner's attorney. Mr. Finsley stated that it would be of assistance to the Adult Authority to receive information from both the District Attorney and the prisoner's representatives, but that the Adult Authority usually gets no response from the District Attorney to the notice for parole hearing.

Mr. Binns asked whether Nalline needed further testing before it could be introduced for use in the control of narcotics law violators, because historically, as each new drug has been developed it has been hailed as a cure for drug addiction and in many cases the new drug has been the cause of even more cases of addiction. Mr. Storer stated that Nalline had been tried in Lexington in the 1940's. He stated

that Nalline is a narcotic which has pain killing properties, it has bad side effects, including disorientation. It is not addicting because it does not produce euphoria. Mr. Storer stated there was a danger in using it indiscriminately and there is some indication that it can give a pleasurable affect. However, Mr. Storer stated that Nalline should be tried as another weapon to prevent re-addiction, but that it is merely a crutch and will not scare off an addict who wants to become re-addicted.

Mr. Binns requested that the Project Director get some literature on the use of urinalysis for detection of addiction. Mr. Storer stated that this could be done by contacting Mr. E. Leong Way and Dr. Elliott of the University of California at Berkeley.

Mr. Finsley stated that public policy causes the Adult Authority to prevent the release of a prisoner until a given period of time. For example, he stated that public policy guides the Adult Authority in the case of the sale of heroin. No prisoner, no matter how good a record he has, will be released in less than three years because of the pressure of public policy, where he has been convicted of this offense.

Mr. Storer stated that a recent report concerning prisoners in State Institutions used 3 ounces of heroin as a criteria for proof of peddling. Mr. Storer said that in many cases, because of the lack of funds for the Bureau of Narcotics Enforcement, buys are made from peddlers in amounts far less than 3 ounces. Mr. Neeb asked Mr. Storer if additional funds were needed by the Bureau of Narcotics Enforcement in order to purchase narcotics from peddlers in large amounts. Mr. Storer replied that the Bureau could use additional funds for this purpose.

Mr. Binns called the attention of the Commission to the booklet, Probable Cause to Arrest and Admissibility of Evidence, furnished to the Commission by the Attorney General's office. Mr. Binns stated that special attention should be paid to pages 67, 123, 143 and 183. On page 67, a distinction is made between the sanctuary of the home and the automobile. Page 123 deals with situations where the name of an informant must be revealed. Page 143 deals with road blocks and page 183 deals with the search of premises of a licensee.

The Commission then advised the Project Director that a summary explaining the suggested legislative changes distributed to the Commission for discussion purposes only should be prepared. The Project Director was also instructed that the Commission should be consulted before any statement was made to any person concerning the Commission. Mr. Neeb pointed out that any peace meal announcement of the recommendations or conclusions of the Commission would destroy the effect of the final report. The Commission instructed the Project Director that distribution of the minutes of the Commission's meetings should be restricted to the members of the Commission.

The Commission instructed the Project Director to draft a letter requesting that the Governor assist the Commission in changing the location of the Commission's offices from Sacramento to Los Angeles. The Commission felt that considerable money would be saved to the tax payers by changing the Commission's offices to Los Angeles. The greatest narcotic problem is located in Los Angeles and further, the public feeling for change in the narcotic laws is strongest in the Los Angeles area. Further, the work of the Commission must be independent of the influences of any other State agency and if the Commission were housed in Sacramento it might appear that undue influence was being exerted upon the work of the Commission. If the office were located in Sacramento, a great deal of time and money would be expended in travel to the Los Angeles area by the staff in order to compile statistics,

investigate facts and interview officials concerned with the narcotics problem. In addition to the foregoing, it should be pointed out that three of the five Commissioners live in the Southern California area. A motion to advise the Governor that the Commission's offices should be located in the Los Angeles area was carried unanimously.

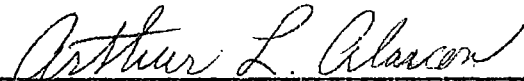
Mr. Binns stated that, according to his information, the best test for marijuana was a spectrophotometer. Such an instrument should be purchased for the use of the Bureau of Narcotics Enforcement, according to Mr. Binns.

The next meeting of the Commission will be on July 20, 1960 in Los Angeles.

The following materials were distributed at the meeting:

1. A copy of a letter received from Senator Clair Engle.
2. A copy of a letter received from Senator Thomas H. Kuchel.
3. A copy of the State Narcotics Act.
4. A copy of an Appendix to the Compilation of Recommendations by Various Committees and Groups to Reduce the Narcotics Problem.
5. A copy of the report of the President's Interdepartmental Committee on Narcotics.

Respectfully submitted,



Arthur L. Alarcon
Project Director

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MINUTES OF THE MEETING
OF
THE SPECIAL STUDY COMMISSION ON NARCOTICS
LOS ANGELES, CALIFORNIA

JULY 20, 1960

Presiding: Mr. Harry M. Kimball Time: 10:00 A.M.

Present: Mr. Harry M. Kimball, Chairman
Mr. Walter Binns, Member
Mr. John E. Storer, Member

Mr. Arthur L. Alarcon, Project Director

Stuart Knox, M.D.
Representing the California Medical Association

Hon. Louis H. Burke,
Presiding Judge, Los Angeles County Superior Court

Hon. Lewis Drucker
Representing the Los Angeles County Superior Court

Hon. Gerald C. Kepple
Representing the Municipal Court of Los Angeles
Judicial District

Chairman Kimball asked Dr. Knox to discuss our present narcotics laws especially with reference to the treatment of narcotics addicts.

Dr. Knox stated that narcotics addiction is as much a medical problem as it is a legal law enforcement problem.

Our present narcotics laws are theoretically adequate if properly applied according to Dr. Knox; he stated that there is in his opinion an advantage in enacting new legislation which would provide for stricter penalties. He stated that the club over the head has some psychological value in controlling the peddling of narcotics. A greater penalty on the distributors of narcotics is particularly necessary. Dr. Knox stated that there should be a distinction between the non-addicted peddlers and the addict-peddler insofar as punishment is concerned. According to Dr. Knox, 99% of the users become peddlers of narcotics to some degree.

Dr. Knox stated that narcotics addiction is currently a major public health and safety problem. It is an infectious spreading disease. He stated that no use has been made of our public health laws in controlling this problem.

Under our public health laws, we have the power to quarantine, isolate, or segregate the addict from society for an indeterminate time. Dr. Knox drew an analogy to the control of tuberculosis under our public health laws. He stated that a person who is a tubercular can be institutionalized immediately and such person has no recourse to the courts for an immediate release on bail. Dr. Knox stated that our present laws permitting bail for a person accused of narcotics addiction does the addict and society no good. During the period of time which the addict is on bail, he can go to Tijuana for more narcotics or contact his source of supply. Dr. Knox asserted that the public must be informed that isolation or quarantine is necessary in order to control the spread of narcotics addiction.

Dr. Knox stated that the Harrison Drug Act takes management and control of narcotics addiction out of the medical profession and puts it into the hand of law enforcement. He stated that generally the only doctors handling addicts are those in public institutions and some few doctors with shady practices. The average doctor is afraid to have any dealings with narcotic addicts because he is afraid of the penalties under the Harrison Drug Act. He also knows that he cannot trust the narcotic addict to refrain from talking or informing.

Chairman Kimball asked Dr. Knox whether the medical profession was ready to do something about narcotics addiction. Dr. Knox replied that the medical profession can do something about the problem of narcotics addiction if given a well-delineated pattern to follow so that a doctor knows in advance what he may or may not do under the law in treating the addict.

Dr. Knox said that in treating a narcotic addict, he must be hospitalized immediately and be under control during his withdrawals; however, of greater importance is control and supervision after the withdrawn addict is released from the hospital. Dr. Knox said that private treatment of the withdrawn addict must be coupled with compulsory reporting by the patient to his doctor for treatment, therapy, and Nalline testing. Patients should also be required to report to some state agency. The doctor should also be required to file a report with a state agency concerning the withdrawn addict under his treatment. Dr. Knox stated that unless the withdrawn addict is a probationer or parolee, there is no way that he can be forced to visit his doctor. Dr. Knox stated that the experience of the Lexington Hospital was abysmal because there was no follow-up supervision and control. Dr. Knox reiterated that if the burden was placed by law on the person to furnish regular reports to the releasing agency signed by his doctor and with a report also required from the doctor, adequate control could be set up for private treatment for the withdrawn addict. Dr. Knox stated that in his opinion, it was advisable to have longer probation or parole in order to prevent re-addiction. This period should be at least of five years' duration.

Mr. Binns stated that the medical profession could control the type of doctor who would treat the withdrawn addict by setting up a special license board for doctors who wish to specialize in the treatment of narcotics addiction.

Mr. Binns further stated that the Commission should explore the question of the use of isolation for quarantine for the control of narcotics addiction. He stated that when you enter into the field of Public Health, the Supreme Court would be more likely to be on your side. Mr. Binns cited as an example, the recent Supreme Court decision which upheld the right of an inspector to enter into a home for an inspection without a warrant.

Chairman Kimball stated that in his opinion it is necessary for the medical profession to become involved in and concerned with the control of narcotics addiction since law enforcement alone has been unable to furnish the answer. He stated that you must explore the health laws to see whether they can be applied to the control of the spread of narcotics addiction.

Dr. Knox stated that there is more opportunity under the health laws than under the criminal laws for the control, supervision, and quarantine of narcotic addicts.

Chairman Kimball asked Dr. Knox to discuss the experience of the medical profession with doctors who are addicts. Dr. Knox stated that there was a high recovery from narcotics addiction among doctors. Approximately 90% of the doctors who were found by the Medical Board to be addicted to narcotics successfully refrained from the use of narcotics during the five year period during which they were supervised by the Medical Board. Dr. Knox stated that less than 10% of the non-professional addicts are permanently cured of their addiction. The method of treatment and control of doctor-addicts utilized by the Medical Board is as follows:

1. The doctor-addict is required to go to an institution until he has withdrawn from the use of narcotics.
2. The Medical Board revokes his license to practice medicine; however, this revocation is suspended for a period of five years provided that the doctor refrain from the use of narcotics or the handling or prescribing of narcotics in any way during this period of five years. If the doctor violates these conditions, his license to practice medicine is revoked.

Under this program set up by the Medical Board, the doctor's livelihood is placed in jeopardy therefore his motivation to control his desire to become re-addicted is great. Furthermore, the withdrawn addict-doctor's friends and colleagues for the most part are eager to help the doctor to fight his problem. By way of contrast, the non-professional addict is usually enticed by his "friends" to join them in the continued use of narcotics.

Dr. Knox stated that the withdrawn addict-doctor is periodically checked by the Medical Board to determine whether he has become re-addicted. There is a further control in that if any doctor writes too many prescriptions for narcotics, the State Bureau of Narcotics Enforcement will find out and take appropriate action.

Dr. Knox stated that in his own experience with the treatment of withdrawn addicts, of those addicts who are undergoing psychotherapy under his supervision, better than 50% have stuck to the program after a year. Dr. Knox stated that permanent cure of narcotics addiction can be accomplished if there are adequate controls including the use of Nalline. He stated that the fear of getting caught by the Nalline Test is a crutch which adds to the motivation to keep from becoming re-addicted.

Dr. Knox stated that ambulatory treatment for narcotics addiction is not effective. There is nothing to take the place of isolation or initial hospitalization. The addict must be kept under supervision and control in the hospital environment until he has withdrawn. Dr. Knox stated that such hospitalization can be for a period of time of as little as five days.

Dr. Knox stated that relapse to addiction generally comes from association with friends. He again contrasted the doctor-addict who goes back to decent society and people who want to help him get well. His fellow doctors do not avoid or isolate him; they try to help him. The non-professional addict's friends try to get him back on narcotics.

Mr. Binns asked Dr. Knox whether he felt that narcotics addicts should be treated in a State Mental Hospital or whether a separate facility should be established exclusively for their treatment.

Dr. Knox stated that there should be a State Narcotics Hospital with research facilities to tally up the results. He stated that when narcotics addicts are placed in Mental Hospitals, there is no program for their treatment and they spend their time daydreaming and feeling superior to the inmates who are mentally ill.

Dr. Knox stated that one recommendation he would make to the present program set up by the Department of Corrections for paroled narcotic addicts is to set up a Half Way House. A Half Way House is an intermediate facility. Its purpose is to get parolees back into the community and put them to work but to require them to live in a state building supervised by trained personnel in order to preclude the parolee from immediately going back to his old environment. Such an institution should be self-supporting with the parolees contributing to the cost of their room and board. Part of the program of the Half Way House should be the use of Nalline testing.

Dr. Knox stated that there is presently a Half Way House run by the Big Sister League called the Minnie Barton Home. This institution is privately run and is set up to assist women in their adjustment to community life after imprisonment.

Dr. Knox then asked Mr. Storer to explain under what circumstances a doctor would be permitted to use Nalline for testing purposes. Mr. Storer explained that under present law, a doctor may be licensed to use Nalline only for the purpose of testing parolees and probationers. The controlling law can be found in Health and Safety Code sections 11391, 11722, 11750, 11753, 11793, and Government Code sections 3710 and 3711.

Mr. Storer explained that under our present Federal laws, ambulatory treatment of narcotic addicts is illegal. If the State were to set up laws permitting ambulatory treatment, the Federal Government would act to invalidate such laws. Mr. Storer stated that the American Medical Association feels that ambulatory treatment of narcotic addicts will not work. In order to permit a private doctor to use Nalline as a test for someone other than a probationer or a parolee, there would have to be a change in the present state and federal laws.

Dr. Knox stated that there is no provision for follow-up care including the use of Nalline for someone who presents himself to a doctor voluntarily.

Mr. Storer stated that every addict can be taken care of under our present laws by presenting himself to a State Hospital for treatment. Mr. Storer stated, however, that the current program including the use of the State Hospital for persons who seek voluntary commitment is not sufficient to cope with the problem of narcotic addiction for the simple reason that we still are faced with narcotic addiction.

Chairman Kimball stated that he felt that there should be a place where a person could go seeking treatment for narcotic addiction without having to go to a state agency. Mr. Storer stated that such an addict could voluntarily go to a state approved hospital. However, under our present laws, a person who is discharged from such a state approved private hospital has no follow-up supervision and control. There should be a requirement that such a person be subjected to a follow-up supervision and control.

Chairman Kimball stated that possibly a law might be enacted which would require the hospital, in order to obtain its license to treat persons addicted to narcotics, to agree to require the patient to submit to follow-up control and supervision. Some sort of follow-up and supervision should be required for persons seeking treatment from a private doctor and if such patient failed to report, the doctor should be required to turn the patient in to the State.

Mr. Storer stated that under our present laws if an addict goes to a private doctor and the doctor cannot treat him, then the patient must go to a hospital. Mr. Storer stated that if an addict goes to the State Bureau of Narcotics Enforcement for help, he is advised that he has three alternatives:

1. He may voluntarily commit himself to a State Hospital.
2. He may voluntarily commit himself to a private hospital.
3. He may submit himself to arrest for violation of the Health and Safety Code section 11721 (use for addiction to narcotics).

Dr. Knox stated that he felt that the present laws calling for a minimum of 90 days in the County Jail for a conviction of narcotics addiction is proper but that there should be a longer period of probation or parole of at least five years. He stated that an addict could withdraw from the use of narcotics within 5 days; the important part of his treatment is the follow-up supervision and control. Dr. Knox stated that shortening the mandatory 90 days for a conviction of narcotics addiction would not be proper until there was a total program set up including a longer probation or parole, Nalline testing, etc. He stated that he felt it would be premature at the present time to require shorter periods in the County Jail for narcotics addiction, if only to keep the infection of narcotics addiction controlled. Dr. Knox stated, however, from the standpoint of the addict, a shorter time in jail would be helpful in terms of a job and his own personal problems but until a total program is developed including follow-up supervision and control while on a long probation and control, no change should be made in the mandatory minimum of 90 days in the County Jail.

Dr. Knox stated it would be of great assistance to the medical profession for the doctor to have a handbook setting forth in layman terms what a doctor may do and how far he should go in treating or handling the narcotic addict. He stated that at the present time, a doctor must search throughout the books to find the legal limitations imposed upon him.

Chairman Kimball asked Dr. Knox if the medical profession felt that it was necessary to have a private voluntary program for the treatment of narcotic addicts. Dr. Knox stated that the medical profession would like a voluntary program. Chairman Kimball stated that he was in favor of a private voluntary program with an adequate follow-up program providing for re-hospitalization should the addict become re-addicted and providing for the addict to be sent to the State program upon such re-addiction. Chairman Kimball stated that under our present laws, private treatment of the voluntary addict was faulty because there was no mandatory follow-up control and supervision with tests such as Nalline as a part of the program.

Mr. Storer stated that a doctor cannot treat an addict in an ambulatory manner under our Federal and State Laws; Nalline cannot be prescribed by a private doctor to an addict; however, if an addict is "cured" a doctor may then give him Nalline. Mr. Storer then posed this question: "If a doctor has a patient who has withdrawn from narcotics and who says to the doctor that he is not sure whether he can withstand narcotics addiction without the use of Nalline testing as a crutch, may a doctor then treat such a person by the use of Nalline to prevent re-addiction?" Mr. Storer said that the answer to this question lies in the definition of the word "cured". Nalline may not be used for the cure and treatment of the addict without changing the laws; however, if a man is considered to be cured after going through the withdrawal period, then a doctor possibly could use Nalline to prevent re-addiction and as a part of all therapy.

Chairman Kimball stated that private industry should be able to step into the field of the treatment of the narcotic addict provided there was proper administrative supervision and control. Mr. Storer stated that in his opinion, the addict should be "cured" in a state institution; post institutional care should, however, be allowed to be taken over by the private doctor. Mr. Storer stated that Dr. Knox in his treatment program considers the addict to be "cured" after five days in an institution as required by law. Dr. Knox then is ostensibly treating an addict but is working with a "cure" addict.

Chairman Kimball requested that the Project Director make up brief resumes of all the suggestions and ideas advanced by the various commissioners at our previous meetings. These resumes should be distributed to all of the members and should serve as rough drafts for the material to be included in our interim report which is due in December. Chairman Kimball suggested that rather than ask the California Peace Officers' Association and the California District Attorney's Association to appoint a committee to meet with the Commission, that the Commission should invite persons from these groups that the Commission felt would represent their views. After discussion, it was suggested that at our next meeting which should be in the San Francisco area, that Tom Lynch, Frank Coakley, Colonel White, and George Davis be invited to participate. It was further suggested that Rae Vader, Supervising Customs Agent for the San Diego area be invited to participate at some future meeting. It was further suggested that Ron Beattie of the Bureau of Criminal Statistics of the Department of Justice should be invited to meet with the Commission.

Mr. Binns stated that in his opinion, the Commission must come up with a recommendation changing the law in the area of a search and seizure and the rules concerning the disclosure of the names of informants.

Mr. Binns suggested that the Commission should consider recommending a law which would modify the Exclusionary Rule by making admissible any evidence obtained by a search warrant regardless of any defects in the warrant. He further suggested that it be made a crime for an officer to fraudulently obtain a search warrant.

Judge Lewis Drucker was asked to comment on the attitude of the Los Angeles Superior Court to our present penalties set up for violations of the narcotics laws.

Judge Lewis Drucker stated that in Los Angeles County, there are 14 Superior Courts in the Civic Center devoting full time to the trial of criminal cases and 5 courts in the outlying sections of Los Angeles County which devote their time to such trials. There are therefore 19 to 20 judges trying criminal cases full time in Los Angeles County.

Prior to 1951, the maximum sentence for any narcotics violation was six years. Prior to 1947, there existed in the laws a credit system under which a prisoner could earn credits which would reduce the six years to four years and three months.

Under the changes in 1951 and 1953, probation was not permitted for the sale of narcotics. According to Judge Drucker, the prisons filled up so rapidly that in 1954 the legislature changed the law so that probation was permitted for the sale of narcotics. In 1959, under Health and Safety Code 11718, the legislature restricted the court from striking prior convictions; prior to September of 1959, prior convictions were struck by the court. According to Judge Drucker, whether the prior was struck actually made no difference in the disposition made by the Adult Authority.

Judge Drucker stated that most of the persons convicted for selling narcotics are addicts themselves. According to Judge Drucker, the type of people that are processed through the state courts are different from the ones the Federal Government deals with. The Federal Government deals with the large scale peddler of narcotics. The state courts deal with the victims of the narcotic traffic. Judge Drucker stated that the courts have found themselves under our laws compelled to send persons to state prison who are wholesalers.

Judge Drucker stated that by sending the narcotics addicts to state prison we are spreading the disease. Judge Drucker stated that when he was on the Adult Authority, only 2% of the prison population had been convicted of narcotic law violations. Judge Drucker stated that today, 18% to 20% of the persons in prison have been convicted of narcotic law violations. Thirty per cent of the inmates of the women's institutions are committed because of narcotics.

Punishment alone is not the answer to the control of narcotics according to Judge Drucker. The punishment for narcotics law violation has been increased since 1951-1953 yet the crime rate based on the arrest figures keeps going up year after year. To prove that the increase in punishment is not a deterrent, Judge Drucker pointed out that although the Federal Courts have been sentencing narcotic law violators to heavy sentences up to 40 or 50 years in length, the crime rate in this area has not been reduced even though persons involved with possession or sale of narcotics can be prosecuted by either the State or the Federal Court. Judge Drucker stated that those who claim that heavier penalties have decreased law violations cite Ohio as an example; but, according to Judge Drucker, Ohio is an unfair example because of the small incidence of narcotics addiction in that State. To prove their case that heavier penalties resulted in less narcotics law violations in Ohio, the proponents of increased penalties point out that in 1957 there were 56 narcotics addicts while in 1958 after the law was changed, there were only 37 addicts.

Judge Drucker stated that our present laws with reference to the punishment for narcotics law violations are adequate. Increasing punishment alone is not an effective way to eliminate the problem of narcotics addiction so long as the importation of narcotics from Mexico is so easy. There will always be peddlers who will find new recruits to use narcotics and also to push narcotics and there will be parolees who will revert to their narcotics addiction.

Unfortunately, according to Judge Drucker, we do not punish the large scale trafficker in narcotics with heavy penalties. Judge Drucker cited from a statement of Warren Olney, to the effect that no distinction was made in our law between the non-addict and the addict-pusher, who himself was a victim of the narcotics traffic. Our heavy penalties in the field of narcotics violations are applied to the victims and not to the peddlers. Judge Drucker stated that this statement was made by Mr. Olney to the Bogg's Committee. Judge Drucker stated that there was an article in the American Bar Association Journal for February 1960, Volume II, by George Dodd, in which Mr. Dodd states that mandatory sentences are wrong, for the reason that they prohibit the consideration of mitigating circumstances. According to Judge Drucker, in 1959 a proposal to repeal mandatory sentences was backed by the Department of Justice.

Judge Drucker stated that in the last few years there has been much adverse publicity against the Los Angeles County Superior Court concerning the sentencing of narcotics law violators. The fountain-head of the furor concerning the need for, and increase in punishment was the Federal Bureau of Narcotics. During the time that the courts were being so maligned in 1958, approximately 97% of those persons convicted of the sale of narcotics were sentenced to state prison. In 1959 100% of those persons convicted of the sale of narcotics with a prior conviction were sentenced to the state prison.

Judge Drucker stated that the most important thing that could be done in the control of persons convicted of narcotics law violations is to keep them under supervision while they are on parole. Judge Drucker stated that parole is a protection of society and is a grace. Judge Drucker stated that the Los Angeles Superior Court is in favor of mandatory hospitalization for narcotics addicts. He stated that the inter-departmental committee appointed by President Eisenhower has recommended mandatory hospitalization for addicts.

Judge Drucker stated that insofar as law enforcement is concerned, he felt that the laws should be strengthened to assist law enforcement, and yet at the same time the Defendant's constitutional rights must be safeguarded. Judge Drucker stated that in 90% of the cases, the disclosure of the name of the informant means absolutely nothing to the Defendant; however, there are cases where the informer is seeking to wreak vengeance upon the Defendant, and may, in fact, have planted the evidence to carry out his purpose.

Judge Drucker stated that in many cases, the courts have been criticised for meting out light sentences where the arresting officers have requested a lighter sentence for the Defendant because of some assistance which he has rendered law enforcement.

Judge Drucker stated that recently the attacks on the local Superior Court have lessened because public attention has been focussed upon the problems involving the importation of narcotics in the State

of California. Judge Drucker pointed out that during the war, the rate of narcotics addiction went down drastically because all ships were searched by Federal Agents. Therefore, there is a correlation between the importation of narcotics and addiction. Judge Drucker then presented to the Commission a report made by the County Clerk of Los Angeles County concerning the disposition of all felony law violations in 1959.

Judge Drucker pointed out that 35% of people convicted of narcotics law violations are sentenced to state prison, while 26% of the persons convicted of all other felony violations are sentenced to state prison.

Judge Drucker stated that our state courts do not get the wholesale traffickers in narcotics, and cited the report of the Department of Corrections in November of 1959 as his authority for his statement.

Mr. Storer pointed out that because of the budget of the Bureau of Narcotics Enforcement, undercover operators working for this Bureau must make purchases of narcotics in small amounts in order to catch more narcotics peddlers. Judge Drucker stated that there was merit in Mr. Storer's attack on an arbitrary figure or amount in determining who is a large or small peddler.

Judge Drucker stated that it was up to Law Enforcement officers to supply the information as to the extent of the peddling activities of the defendant to the Probation Department for the probation report, or else the court would not receive a true picture of the extent of the defendant's activities. Quite often the probation officer gets little or no information from the law enforcement officers who handle defendant's case. Judge Drucker pointed out that to the court a defendant who sells one ounce of heroin is a large dealer. The court does not get much information regarding people who deal with three ounces of heroin or more.

Judge Gerald Kepple of the Municipal Court of the Los Angeles Judicial District was asked to comment upon the procedures of the Municipal Court of the Los Angeles Judicial District concerning the issuance of search warrants. Judge Kepple stated that in the years 1955-1960, only twenty search warrants had been issued involving violations of the narcotics laws. In the year 1960, from January to the date of Judge Kepple's appearance, (July 20, 1960) six search warrants have been issued involving narcotics law violations.

Judge Kepple stated that in view of the small number of requests for search warrants, there was no problem concerning the availability of a Municipal Judge at any time of the day or night should one be needed for the purpose of the issuance of a search warrant. Judge Kepple stated that if sometime in the future there were to be an increase in the demand for search warrants, the Municipal Court would make available sufficient Municipal Judges to properly serve any law enforcement agency requesting a search warrant.

Judge Kepple stated that insofar as punishment is concerned, in the great majority of cases he did not feel that the severity of the sentence constituted a deterrent or provided an answer to the limitation of the crime; however, as far as narcotics peddlers are concerned, an increase in punishment must be tried to see if it will be an effective deterrent to the illegal trafficking in narcotics. Judge Kepple said it is too easy to rationalize in this area by trying to make a distinction between the addict-peddler and the non-addict peddler. The addict is not as helpless to control himself as people think. The drug peddler is anyone who peddles narcotics.

Mr. Storer commented that the addict-peddler chooses to sell narcotics in order to support his habit.

Judge Kepple stated such an increase in punishment need not be made mandatory upon the court. Judge Kepple stated that judging the type of peddler by the amount which he sells is ridiculous. To say that there are no real peddlers in San Quentin is equally ridiculous and fallacious.

So far as heroin is concerned, Judge Kepple stated that it should almost be a capital offense. In a clear case of the sale of heroin, there should be some discretion in the court, but such discretion should be similar to that permitted in a capital offense.

Judge Kepple stated that he authored the bill in the legislature to eliminate the hospital at Spadra, which was set up for the treatment of narcotics addicts. Judge Kepple stated that the narcotics addict is like the alcoholic. The cure is not worth the cost, from the experience gained at Lexington and Fort Worth.

Judge Kepple stated that segregation of the narcotic addict is the answer. The length of time which the narcotic law violator is required to serve should be extended. The addict should be put on a farm-type of penal institution, so as to isolate him from society while at the same time restoring him to good health.

Judge Kepple closed his remarks by reiterating that anytime a law enforcement officer wants a search warrant, he will be available -- if the demand is there, a judge will always be available.

Judge Drucker then resumed his discussion with the Commission. Judge Drucker stated that the Spadra Hospital for the treatment of narcotics addicts was doomed to failure because of the lack of a proper attitude. (Judge Drucker suggested that the Commission read a report by Dr. Kolb on the need for a psychopathic hospital within the Department of Corrections printed in 1959).

Judge Kepple then asked if anyone believed that a hospital program would cure a narcotic addict. Mr. Binns stated that the Lexington Hospital has proved to be a failure because there is a lack of follow-up supervision and control, and because it is not a mandatory program.

Judge Drucker stated it would be a great help in controlling the problem of narcotics addiction to permit mandatory hospitalization of narcotics addicts under the jurisdiction of the Department of Corrections on a selective basis.

Judge Drucker stated that the courts very rarely committed anyone to the State Department of Mental Hygiene under Welfare and Institutions Code, Section 5360, because they have no program there for narcotics addicts.

Judge Drucker commented that one of the reasons for the failure of the hospitals at Lexington and Fort Worth is that many of the inmates go there to avoid prosecution, and not because they are seeking a cure. Judge Drucker stated that under a system where the court could order a mandatory commitment to a hospital supervised by the Department of Corrections on a selective basis, the hospital could tell which persons were not amenable to treatment, and these persons could then be prosecuted and jailed under the existing laws.

Judge Drucker stated that if we send all narcotics offenders to the state prison, where would we put them? The Judge stated that at the present time we are short three prisons.

Mr. Storer then asked what would happen if it were announced that everyone who sells narcotics would go to the state prison? What effect would this have on the number of peddlers?

Judge Drucker was then asked if it would be of assistance to the court if the District Attorney actively participated on probation and sentencing hearings where the District Attorney felt that the probation report was in error, or did not fully and fairly state all the facts concerning the defendant's background. Judge Drucker stated that there was a need for the District Attorney to speak out where either the probation report or the Defense Attorney made erroneous statements. The court gets all kind of unilateral statements, many of which are not accurate. The District Attorney should correct such statements. Furthermore, in a difficult or serious case where the District Attorney has facts within his knowledge which do not appear in the probation report, it would be of great assistance to the court for the District Attorney to speak out.

For purpose of the record, the defendant's attorney and the District Attorney both should set forth all the facts they feel the court should have before them in passing sentence.

Judge Drucker stated that the court is not confined to the charge for which the defendant was found guilty, or to which he pleaded guilty. The court looks to the entire background of the defendant and to any other charges or accusations brought against the defendant whether they are filed upon or subsequently dismissed.

Judge Drucker stated that it is essential for the court to get all the background facts about the defendant, but unfortunately, many times the probation report states that the Law Enforcement Agency did not cooperate with the Probation Department. Judge Drucker stated that it would be helpful to the court and to the Adult Authority if a probation report were prepared by the Law Enforcement Agency handling the case, setting forth the entire background of the defendant and the true extent and nature of his criminal involvement.

Judge Drucker stated that in his experience as a member of the Adult Authority, he often found it very difficult to get information concerning the defendant. On some occasions, the Adult Authority could not determine from the records before it whether the defendant had been convicted for the sale of narcotics or for possession thereof.

Mr. Storer commented that such a report prepared by the Law Enforcement Agency for the use of the court and Adult Authority should be made mandatory by law.

Judge Louis Burke, the presiding judge of the Superior Court for Los Angeles County, commented that it would be of great assistance to the court to have a weekly or bimonthly digest of narcotics cases so that the judge could keep up with the constant changes of new interpretations made in the rules governing searches and seizures and the Exclusionary Rule. Such a service could be furnished a state agency, such as the Attorney General's Office. This service would eliminate the confusion created by judges, who, for one reason or another, have not kept up with all the cases in this field, which causes them to make conflicting and contradictory rulings on similar sets of facts.

Judge Burke suggested to the Commission that the report on narcotics of the California Youth Authority, Volume 13, No. 2, published in 1960, should be consulted. Judge Burke stated that originally he had been told that there was a program within the Department of Corrections at Vacaville for the treatment of narcotics addiction. Judge Burke stated that upon investigation, he found that there was, in fact, no such special treatment provided within the Department of Corrections. He stated that at Vacaville there was no separation of the narcotics law violators from the other prisoners. This was due to the attempts by the Department of Corrections to avoid a caste system within the institution. Judge Drucker stated that the only encouraging thing that he saw at Vacaville was the use of the technique of group therapy.

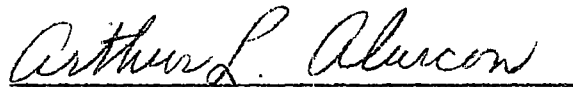
Judge Burke stated that you cannot sit as a judge handling criminal cases and continue to believe that all persons who are convicted of narcotics offenses should be treated exactly alike. The community, according to Judge Burke, has a responsibility to send addicts to hospitals for an indeterminate period of time, followed by close supervision and control with addict tests such as Nalline to control re-addiction.

Mr. Storer commented that in his opinion, there should be no distinction made between the addict-type of peddler and the non-addict type of peddler. Mr. Storer stated that in his opinion, if all peddlers were treated as narcotic traffickers, whether addicted or not, and told that they were all going to prison, panic would spread among the peddlers which would have a deterrent effect. The law of supply and demand would then take effect.

Material distributed:

1. Henning's Report on Juvenile Delinquency.

Respectfully submitted,


Arthur L. Alarcon
Project Director

ALA:cg

Agenda for Meeting of
Special Study Commission on Narcotics
June 29, 1960

Rickey's Studio Inn Motel
4219 El Camino Real
Palo Alto, California

- I. Fred Finsley, Chairman, Adult Authority - Will speak on policy with reference to parole of narcotics law violators including the criteria used to determine eligibility and comments concerning proposed increase in punishment for narcotics law violation.
- II. Correspondence.
 - (A) Letter from Pat Brown re wire tapping.
 - (B) Letter from Thomas H. Kuchel re White House Conference.
 - (C) Letter from Clair Engle re White House Conference.
 - (D) Letter from Congressman Donald L. Jackson re Sylvia Beaudry.
 - (E) Letter from San Diego District Attorney's Office containing search warrant material.
 - (F) Letter to District Attorneys' Association requesting appointment of a committee to assist the Commission.
 - (G) Copy of a letter to Cecil Poole from the San Diego County Board of Supervisors requesting the appointment of five (5) additional agents for the Bureau of Narcotics, San Diego office.
 - (H) Letter from the office of Robert O. Fort advising that he was out of town but would be contacting us upon his return.
 - (I) Letter from George H. White, District Supervisor, Bureau of Narcotics, enclosing material re penalty provisions throughout the United States.
- III. Report on search warrant survey.
- IV. Report on discussion with Cecil Poole re congressional bill re hospitalization for addicts.
- V. Discussion re legislative changes and comments on the Elkins Case.

A G E N D A

SAN FRANCISCO MEETING OF THE
CALIFORNIA SPECIAL COMMISSION ON NARCOTICS

AUGUST 31, 1960

1. 9:30 a.m. - Col. George H. White - District Supervisor, Bureau of Narcotics. Colonel White is prepared to discuss the subject of the adequacy of present penalties for violation of the state narcotics laws. He will also be prepared to discuss the Exclusionary Rule and the rule requiring the disclosure of the names of informants to establish probable cause for an arrest. In addition, Col. White will give his views on effective means of curbing the illegal importation of narcotics.
2. 10:00 a.m. - Albert C. Hederman, Jr. - Assistant District Attorney, Alameda County, appearing for J. F. Coakley.
Mr. Hederman will give his views on the Exclusionary Rule, the Priestly case requiring the disclosure of the names of informants, and the need for increased penalties. He will also discuss the legislative program of the District Attorneys' Association.
3. 11:00 a.m. - Thomas C. Lynch, District Attorney, City and County of San Francisco.
Mr. Lynch will discuss any or all of the above subjects (Exclusionary Rule, Disclosure of Informant's names and the need for an increase in punishment).

4. 1:45 p.m. - William J. Craig - Formerly Member of the
Federal Bureau of Narcotics.

Mr. Craig has been informed of our interest in the
effect on law enforcement of the Exclusionary Rule
and the rule requiring the disclosure of informants'
names, and also the desirability of increasing punish-
ment on the state level.

5. -- Correspondence.

MINUTES OF THE MEETING
OF
THE SPECIAL STUDY COMMISSION ON NARCOTICS
SAN FRANCISCO, CALIFORNIA

AUGUST 31, 1960

PRESIDING: Mr. Harry M. Kimball

TIME: 9:30 A.M.

PRESENT: Mr. Harry M. Kimball, Chairman
Mr. Walter Binns, Member
Mr. John E. Storer, Member
Chief A. E. Jansen, Member

Mr. Arthur L. Alarcon, Project Director

Colonel George White
Federal Bureau of Narcotics

Thomas C. Lynch, District Attorney
City and County of San Francisco

Albert E. Hederman, Assistant District Attorney
County of Alameda

The Commission heard the opinions and recommendations of the above named persons concerning the narcotics problem in California.

The meeting was adjourned at 4:30 P.M.

Respectfully submitted,



Arthur L. Alarcon
Project Director

ALA:ssc

MINUTES OF THE MEETING
OF
THE SPECIAL STUDY COMMISSION ON NARCOTICS
SAN FRANCISCO, CALIFORNIA
AUGUST 31, 1960
~~SEPTEMBER 14, 1960~~

Presiding: Mr. Harry M. Kimball

Time: 9:30 A.M.

Present: Mr. Harry M. Kimball, Chairman
Mr. Walter Binns, Member
Mr. John E. Storer, Member
Chief A. E. Jansen, Member

Mr. Arthur L. Alarcon, Project Director

Colonel George White
Federal Bureau of Narcotics

Thomas C. Lynch, District Attorney
City and County of San Francisco

Albert E. Hederman, Assistant District Attorney
County of Alameda

Chairman Kimball asked Colonel White to give his opinion as to the need for increased penalties to control the problem of narcotics trafficking in California, and as to how to cope with the illegal importation of narcotics into California from outside the United States. Colonel White stated that the "party line" of the Federal Bureau of Narcotics was to advocate stiffer penalties. In California this could be accomplished by ordering through the Governor's office, that the Adult Authority tighten up its policies concerning the release of narcotics law violators. This could be done administratively and without the need for new legislation.

Colonel White stated that law enforcement agencies, including the Federal Bureau of Narcotics, had been guilty of giving exaggerated publicity to the narcotics problem. When an arrest is made of a peddler the newspapers call it a million-dollar arrest. This exaggerated publicity has resulted in people becoming overly excited about the true nature of the narcotics problem, and has caused the problem to be boosted beyond what it deserves. The Federal Bureau of Narcotics has cut down the amount of publicity concerning narcotics arrests and already this has made for better relations between state and federal agencies whose job it is to enforce the narcotics laws. As a result of this toning down of publicity there will no longer be jealousy as to who makes the biggest arrests.

Colonel White stated that there are no large scale dope peddlers in greater San Francisco, only small peddlers.

Most of the narcotics problem is south at present. In San Francisco there is no one dealer who has a monopoly on the sale of narcotics.

The biggest problem that faces federal and state agencies in California is dealing efficiently with the problem of narcotics which enter Southern California across the Mexican border.

Up to last year the Mexican border was under the jurisdiction of the Customs Department. Now, however, the Federal Bureau of Narcotics is operating in Mexico.

In order to operate undercover in Mexico to trap and arrest the large scale producers of illegal narcotics there is a need for additional funds. This money is necessary to make it attractive to Mexican policemen to cooperate with authorities from the United States. Financing is the biggest problem in working undercover in Mexico. Agents from the United States must pay for everything, that is, all the expenses of the Mexican police who work alongside of our agents.

Colonel White stated that he has suggested to Governor Brown that the State should pay Mexican police a bounty on dope peddlers and producers of narcotics of from \$500 to \$1,000 a head. Colonel White said that he also suggested that the State Attorney Generals' office send men to operate undercover in Mexico.

75% of the narcotics in Southern California comes from Mexico.

In Northern California most of the narcotics comes from Asia while some comes from the Eastern coast of the United States, from the Mediterranean area.

Every ship that comes into San Francisco is a potential carrier of illegal narcotics however, there are not enough men to search every ship.

Most of the cases which are developed arising from narcotics smuggled into the United States aboard ship are developed after the narcotics has been distributed. The Federal Bureau then must work its way back to the ship which was the original carrier.

The main problem in Southern California is the illegal importation of narcotics from Mexico. This State should find a way to spend money in Mexico. The Mexican police are so poorly paid that with incentive payment and also payments for entertainment and subsistence, the Mexican police would be induced to operate and enforce their own laws against illegal trafficking in narcotics.

Colonel White stated that if there was a fund set up in California to place a bounty of \$500 to \$1,000 a head on each narcotics peddler there would be such a tremendous impact in one years time that the narcotics problem would be reduced dramatically.

The most important problem concerning the sentencing of narcotics law offenders is what sort of control is exercised after the prisoner is released.

To be a good dope peddler requires experience. If you know nothing about peddling narcotics your first customer will be an undercover agent. Every time a narcotics peddler goes to the County Jail for a short sentence he increases his contacts with addicts and other peddlers; county jail is a finishing school for the dope peddler in perfecting his techniques and increasing his market.

The Federal Bureau of Narcotics wants to put every dope peddler in jail as a quarantine to protect society. If these experts in the sale of narcotics, spend 5, 10, or 15 years in a state prison they will lose all of their contacts and sources of supply. Upon their release they will not constitute a problem.

The Federal Bureau of Narcotics is not talking in terms of curing the addict-peddler. Instead, the Federal Bureau of Narcotics is interested in controlling these addict-peddlers by keeping them out of circulation for long periods of time.

In the Federal Narcotics Laws pertaining to the sentencing of narcotics law violators there is an escape hatch. A man may be given probation or as little as 2 years in prison if he is deserving and if the United States Attorney concurs.

In Mexico the narcotic peddler does not constitute a problem to the Mexican police. He does not commit crimes of violence. He is a source of revenue to the Mexican police. Mexico has a very small addict population. Furthermore, many Mexicans are not concerned with the narcotics problem because large amounts of money are coming into Mexico.

Colonel White in response to a question as to how much money would be necessary stated that \$50,000 spent in one year would have a tremendous impact on the narcotics traffic across the Mexican border.

It is now becoming more difficult to buy narcotics in Tijuana because of the increased activity of Federal and State and San Diego narcotics agents in that area.

The peddlers that are being arrested by authorities in the United States are known to the Mexican police. That is the reason that a bounty payment would drastically cut down on the activities of these persons. Furthermore, these funds would turn up not only the known peddlers but would give the Mexican police an incentive to turn up hitherto unknown peddlers.

Colonel White stated that the Legislature could not be asked officially to approve of a fund to bribe the officials of another government. Therefore, such a fund should be a secret fund and come from an appropriation for secret investigations.

Colonel White stated that closer control on parole was much more important than a long period of parole. Colonel White was critical of the present policy of Parole Agents who require that a man be convicted of an offense before they would violate his parole. Colonel White stated that this policy of requiring a conviction before a parole violation was not conducive to controlling the activities of the

parolee. Colonel White was asked by Chairman Kimball to comment upon the Adult Authority policy of releasing narcotics law violators in approximately one-third of the minimum term prescribed by law.

Colonel White stated that putting someone in jail for six months to a year merely puts him in school. He has an opportunity to learn more about narcotics. Chairman Kimball asked Colonel White to comment upon the use of Nalline as a test for re-addiction.

Colonel White stated that the Nalline test should be a surprise test. The threat of surprise would eliminate the addict with a small habit and also prevent chipping with narcotics. He further suggested that the Parole Agent should have a day to day contact with the parolee.

Chief Jansen asked Colonel White if he felt 5 years in the State prison followed by 5 years on parole would be an adequate sentence.

Colonel White said, that 5 years in custody followed by 5 years on parole would be adequate if the parolee was closely supervised.

Mr. Binns asked Colonel White if there was any validity to a classification of peddlers by the amount sold.

Colonel White said that such a classification is ridiculous. A major peddler might be caught by the police with a small number of caps. On the other hand a small peddler might be caught transporting five ounces of heroin as a favor to a big peddler. Colonel White stated that in making its final report the Federal Bureau includes total evaluation of the prisoners background, the type of crimes in which he was involved, and tries to make an estimate of the type of violator that he is.

Chairman Kimball then asked if the Federal Bureau of Prisons made a determination of the type of environment into which the prisoner was to be released. Colonel White stated that Federal Parole is weaker than that of the various states. A Parole officer in the Federal System is really more a probation officer who acts as an aid to the court.

Chairman Kimball then asked if the narcotic addict or peddler should be separated in prison from the other prisoners.

Colonel White stated that the addicts and the peddlers should be treated like any other prisoner.

Chief Jansen then asked if Colonel White felt that a heavy penalty acted as a deterrent. Colonel White stated that any heavy penalty is a deterrent. Many of his informants who had tried to make buys from former dealers were told by these expeddlers that it was no longer profitable to peddle narcotics because of the 10 years minimum sentences now being levied by the Federal Courts.

Chief Jansen then asked if a heavy fine would act as a deterrent. Colonel White stated that heavy fines would not act as a deterrent. A narcotics law violator is rarely the type that can be levied upon. Such fines would be uncollectible or at best the relatives of the prisoner would be the ones to suffer. The peddler could not care less if his relatives had to suffer in order to pay his fines.

Colonel White then summed up his views as to the two key things that should be done to alleviate the narcotics problem in California.

1. The secret investigative fund should be set up for greater undercover activity in Mexico.

2. The Adult Authority should be "kicked in the ass" to enforce them to toughen up their policies in the fixing of the terms for narcotics law violators.

Mr. Storer then asked Colonel White to comment upon the current attitude among some judges, members of the Adult Authority, and spokesmen for the Department of Corrections who state that the addicted peddler should not be treated harshly and not given long prison sentences because he is a victim of the narcotics traffic, but the narcotics peddler who is not an addict should be treated harshly and the key should be thrown away.

Colonel White stated that there should be no distinction made between the addict-peddler and the non-addict peddler.

Mr. Storer commented that the law should not reward the addict-peddler nor set him up in a priveleged class. The addict-peddler is more of a menace because he is less emotionally mature and therefore more likely to fail on probation or parole.

Colonel White commented that he was strongly against any "clinic" or British system which would permit a doctor to dispense narcotics to an addict.

Chairman Kimball then asked District Attorney Tom Lynch of San Francisco and Albert Hederman, Assistant District Attorney of Alameda County to offer any suggestions which they might have to assist law enforcement in the enforcement of the narcotics laws.

District Attorney Lynch stated that he would give his own opinions and not those of the District Attorneys' Association.

On the subject of punishment Mr. Lynch stated that the people of the State of California have been deluded for years because of the legislation which has been passed which reduces the time served to one-third of the minimum sentence prescribed by law. Although the Legislature has raised penalties since 1951 it is a mere fiction --- 5 years does not mean 5 years in California it means 20 months.

The recent change of policy by the Adult Authority does not impress me, said Mr. Lynch, it is merely a policy change which could be changed to shorten the time served by persons convicted of narcotics law violations. Director McGee is a very wise and smart man and he saw the handwriting on the wall and therefore brought about the policy change in the Adult Authority.

The system of striking priors which occurred in many counties, including Los Angeles County, was not practiced in San Francisco.

The agitation in Southern California for long, long, sentences for narcotics law violators is primarily the work of television newscaster, George Putman.

I believe that the Los Angeles narcotics bill has realistic sentences for narcotics law violators and is certainly much more realistic than our present sentences.

One thing which disturbs me greatly, stated Mr. Lynch, is the discretion that the Parole Agent has as to whether an addict who is using should be turned over to the police. The Parole Agent now has the discretion of turning the addict over to the police or releasing him outright or, sending him to Chino for up to 90 days with the Narcotics Treatment Control unit.

On the other hand the first time addict, that is an addict who has never been arrested before, when picked up by the police must serve a minimum of 90 days. And so it follows that a parolee who is an addict may receive no time in jail while a first offender who is an addict must serve 90 days in the county jail.

Part of the District Attorneys' legislative program, and part of the Kennedy bill is an attempt to repeal the Cahan decision. Mr. Lynch stated that the Cahan bill could not be repealed. Just to repeal in narcotics cases only does not make for good law enforcement nor does it make good sense, nor is it legal logic. It is not right to prevent homicide officers from doing the same things in gathering evidence that a narcotics officer is permitted to do.

The informer rule must be modified to assist law enforcement.

The discovery rules of evidence should be modified because as they now stand the law enforcement officer must turn over his case to the defense. These discovery rules are now unilateral. Discovery should work both ways.

Insofar as the informer problem is concerned, San Francisco has not had much of a problem in this area. Mr. Lynch stated he felt that the officers sometimes bring about the problem themselves. District Attorney Lynch stated that the officer should not mention that he was acting on the basis of information from a confidential informant when he has other evidence which is sufficient to establish probable cause.

District Attorney Lynch stated that San Francisco does not have the same narcotics problem that Southern California does because of its geographical location. He stated that there are only small peddlers in San Francisco. He said that there are no big jobbers in the San Francisco area.

District Attorney Lynch stated that it is ridiculous to judge the type of operation being conducted by a peddler by the amount sold. The last big peddler sent to prison from the San Francisco area was convicted on the basis of the leavings of marijuana plants found in his automobile.

Chairman Kimball stated that in his opinion spending \$50,000 more for undercover operations in Mexico would be mere peanuts in comparison to the millions of dollars lost to the

taxpayer because of the illegal trafficking in narcotics.

District Attorney Lynch said that the Adult Authority is giving the public a snow job in many areas. He stated that their claim of lack of information in order to set a proper term of incarceration is not impressive to him. He stated that since he became the District Attorney in San Francisco he has been visited by the Adult Authority on only one occasion.

Chairman Kimball stated that in his opinion the law enforcement agency that arrested and investigated the case against a particular defendant should provide a special report for the use of the Adult Authority.

Mr. Binns asked District Attorney Lynch if search warrants were used in San Francisco. District Attorney Lynch stated that the search warrant was used very little in the San Francisco area. He stated that if you have enough information for a search warrant then you have enough information to make an arrest and a search as incident to that arrest without the need to obtain a search warrant. He stated that the search warrant was archaic. There are very few narcotics cases where you have the type of information that could be put in a search warrant.

Chief Jansen stated that in San Diego if you do not have a search warrant the District Attorney is reluctant to prosecute. The judges in San Diego feel that if the officer has a search warrant then the court will go along with the officers conduct.

District Attorney Lynch said that the reason that search warrants are not used very often is because of the time problem.

Chief Jansen stated that in San Diego the time problem has been solved. At night the police use a simplified form which can be made out by the officer without the need of a secretary or the need to go to the District Attorneys' office. The warrant can be made out and signed and the search accomplished within the period of one hour.

Mr. Hederman stated that in Alameda County the search warrant is used extensively for the reason that if the officer is armed with a search warrant then he can make the search even though the occupant of the home is not present.

Mr. Hederman stated however, that under the present law it is difficult to get a search warrant which can be served at night because the law requires a positive allegation while a search warrant to be issued in the day time does not. Mr. Hederman suggested that legislation could be passed which would make the same requirements for service in the night time as for

service in the day.

Mr. Hederman pointed out that getting a search warrant does not protect an informant. He stated the law must be changed to protect informants.

Chief Jansen stated that in Los Angeles police officers are told, why bother with a search warrant. If you have enough information to get a search warrant then you have enough information to make an arrest and a search as an incident to that arrest without the need for a search warrant. Further, Chief Jansen stated he was told that in Los Angeles it took a half a day to process a search warrant.

District Attorney Lynch said that in San Francisco there are two girls who are experts on the processing of search warrants and they can complete the entire process within one hour.

Mr. Hederman stated that in Alameda County through their simplified procedures it takes only about an hour to get a search warrant issued.

Mr. Binns then asked Mr. Hederman what answer he could give to those persons who challenged the idea of changing the informer rule on the grounds that if there is no disclosure the defendant would never know whether he was the victim of a frame-up.

Mr. Hederman stated that the Legislature screams about the frame-up possibility each time legislation seeking to remove this rule is brought up. The possibility of a frame does not justify the disclosure rule.

Chief Jansen asked if District Attorney Lynch and Mr. Hederman felt it was feasible to have the judge in chambers determine if the defendant's case would be harmed without a disclosure of the name of an informant.

Mr. Hederman stated that the legality of a rule which would permit the judge in chambers to determine whether the name should be disclosed was very questionable.

District Attorney Lynch said that a law permitting the judge in chambers to determine whether the name should be disclosed would fall because the Priestly case requires such disclosure in order to determine if the so called informant is a mere phantom and also to determine whether the informant is reliable.

Mr. Storer stated that many judges defend themselves after giving a light sentence on the grounds that the District Attorney or the police has represented to the judge in chambers that the defendant is entitled to a light sentence because of his cooperation.

District Attorney Lynch said that the District Attorney in San Francisco would not ask for a light sentence unless the law enforcement agency requested such a light sentence. He stated that this request was made only about once a month in San Francisco.

Mr. Hederman suggested that the court should be required to read and forward to the Adult Authority a special report of the investigating agency containing the full background of the defendant. Mr. Hederman stated that there was a lack of communication between the police agencies and the court, and the Adult Authority. He stated that the judges sometimes have only brief facts.

District Attorney Lynch stated that in San Francisco there are two deputies assigned to each department. Prior to the time of sentencing the District Attorney informs the court as to the background of the defendant.

Chairman Kimball asked District Attorney Lynch if he thought it would be helpful to inform the court and the Adult Authority of the full background of the defendant through a special report. District Attorney Lynch said that it should be the duty of the Adult Authority to make an investigation before it released a prisoner.

District Attorney Lynch said he had a communication from the Department of Corrections in which they propose to set up a new system where a Parole Agent will be assigned to a prisoner six months before his release. The prisoner would then be assigned to live in a cottage. He then would be let out on weekend passes until the time of release.

Mr. Binns then asked if there were many cases prosecuted in Alameda County and in the County of San Francisco of sale to a minor.

Mr. Lynch, Mr. Storer, and Mr. Hederman stated that there were very few cases of sales to a minor because they were prohibited from using juveniles as witnesses. When reports come in that sales to a minor are being made, a young appearing officer is sent out to work undercover and to make a purchase from

such a peddler. Then this peddler is prosecuted for selling to the narcotics officer. Mr. Hederman then cited statistics of the Department of Justice to indicate the impact of the Cahan case in California. He stated that since 1955 reported crimes have increased 25% while arrests and prosecutions have risen only. But, insofar as narcotics are concerned the 1959 report shows that arrests are up 12% while superior court prosecutions are up 17%. He stated that arrests in narcotics cases had increased from the last six years 13.5% however, felony complaints files had decreased 13% while felony prosecutions are up 4%. A conviction range in narcotics cases is down 10%.

Chief Jansen stated that one difficulty with arrest figures is the way that the arresting officer may process the case. He stated that if one man is caught with two marijuana cigarettes in the company of three other persons, the officer may make four arrests and then not release the other three persons until they have been searched and checked out. The statistics would then show four arrests for suspicion of possession of narcotics.

Mr. Hederman stated that in Alameda County all persons were booked as felons if they were suspected of violating the narcotics act, even though they were found to have marks or to be addicted which would ultimately result in misdemeanor filing.

Mr. Hederman pointed out that narcotics arrests also depend upon the activity of the Narcotics Department. He cited that in Alameda County there was one aggressive narcotics officer who made a large percentage of the arrests. When this officer goes on vacation a number of narcotics arrests drops drastically.

Chairman Kimball stated that from Colonel White's statements there was too much emphasis placed on the narcotics problem in California. In his opinion there was a need to cut down on the publicity given to narcotics cases by law enforcement agencies.

Chairman Kimball stated that the Commission should attempt to get real information as to the size of the narcotics problem as compared to other crimes and arrests for other offenses.

Mr. Storer asked Mr. Hederman if he felt that our penalties would be adequate if the Adult Authority would use the present minimum when fixing the term of incarceration.

Mr. Hederman stated that it might be considered heresy but

that he did not give "a damn" about penalties. He stated that our present penalties are adequate if the true minimum was used rather than one-third of the minimum as under our present law.

Mr. Hederman stated that if as a result of the 1961 Legislative Session law enforcement wound up with heavier penalties but no relief from the present restrictions, law enforcement would be worse off than before. Mr. Hederman stated that he had the following suggestions for legislative action.

1. A bill to relieve the informant problem.
2. Wire tapping under court sanction should be adopted in California.

Chief Jansen stated that the problem of the disclosure of the name of an informant was a handicap to law enforcement. That insofar as the Cahan case is concerned law enforcement officers should act legally and it was not a true handicap.

Mr. Hederman stated that the repeal of the Cahan case would restore all the old sanctions against a police officer who violated the law in making an arrest, search, and seizure.

Mr. Hederman pointed out that judges do not read their advance sheets and therefore there is unequal enforcement of the rules which followed the Cahan decision.

Mr. Hederman stated that it might be necessary, if the Cahan case were vitiated by legislative action, to make the governmental agency which employs the law enforcement officer also subject to a liability for an unreasonable search and seizure. He stated that the District Attorneys' office of Alameda County was at the present time preparing a rough draft of legislation to be submitted to the Legislature. After these bills were drafted he would send them to the Narcotics Commission and also share any other information which might be of assistance to the Narcotics Commission.

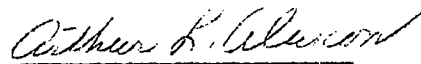
Chief Jansen stated that in his opinion very little should be said in the December report about the Nalline Testing Program because it is still an experimental program which is being

studied by the Department of Corrections.

Distribution:

1 copy to each member

Respectfully submitted,



Arthur L. Alarcon
Project Director

ALA:mef

MINUTES OF THE MEETING
OF
THE SPECIAL STUDY COMMISSION ON NARCOTICS
SACRAMENTO, CALIFORNIA

SEPTEMBER 14, 1960

PRESIDING: Mr. Harry M. Kimball TIME: 9:30 A.M.

PRESENT: Mr. Harry M. Kimball, Chairman
Mr. Walter Binns, Member
Mr. Robert A. Neeb, Jr., Member
Mr. John E. Storer, Member
Chief A. E. Jansen, Member

Mr. Arthur L. Alarcon, Project Director

Mr. James Park, Supervisor of Inmate
Classification-Department of Corrections
(Representing, Mr. Richard A. McGee)

Mr. Joseph Spangler, Administrative Assistant
Adult Authority
(Representing the Adult Authority and
Fred Finsley, Chairman)

Dr. Mark Gerstle, Chief Psychiatrist
Youth Authority

Dr. Daniel Blain, Director
Department of Mental Hygiene

Dr. Daniel Lieberman, Chief Deputy Director
Department of Mental Hygiene

Mr. Leigh Denning, Legal Counsel
Department of Mental Hygiene

Mr. Ron Beattie, Chief
Bureau of Criminal Statistics

Dr. Robert T. Ross, Chief Research Psychologist
Department of Mental Hygiene

The Commission heard the views and recommendations of representatives of the Department of Corrections, the Adult Authority and the Youth Authority concerning the handling of narcotics law violators in our state institutions.

Dr. Blain and his associates detailed the type of treatment offered by the Department of Mental Hygiene for civilly committed narcotics addicts.

Mr. Beattie discussed his work in gathering statistics on narcotics law violators.

The meeting was adjourned at 5:00 P.M.

Respectfully submitted,

A handwritten signature in cursive script, reading "Arthur L. Alarcon", is written over a horizontal line.

Arthur L. Alarcon
Project Director

ALA:ssc

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Mr. Ron Beattie, Chief
Bureau of Criminal Statistics

Dr. Robert T. Ross, Chief Research Psychologist
Department of Mental Hygiene

Director McGee of the Department of Corrections was
unable to appear before the Commission due to a speaking

engagement in Los Angeles. Mr. Park read a letter from Mr. McGee to the Commission, a copy of which is attached to these minutes.

Chairman Kimball stated the Commission was interested in whether our penalty provisions for narcotics crimes were severe enough and whether the Adult Authority was fixing adequate terms prior to parole.

Mr. Spangler, Administrative Assistant of the Adult Authority stated that the Adult Authority had recently revised its policy and had gotten tougher in fixing the sentences for narcotics law violators.

Mr. Park stated that the Department of Corrections was handicapped in that the only information they had concerning a defendant came from the reception center's guidance report or the commitment papers which only show the crimes of which the defendant was convicted. The records available to the Department of Corrections and to the Adult Authority are inadequate in that they do not show the full involvement of the defendant in criminal activities.

Mr. Spangler stated there should be some procedure whereby serious cases are flagged so that the Adult Authority investigators go out and make an independent investigation.

Chairman Kimball stated that apparently the Adult Authority is not getting the information necessary to fully evaluate the serious nature of a prisoner's criminal involvement. Chairman Kimball asked Mr. Spangler how many investigators the Adult Authority had on its staff.

Mr. Spangler stated that the Adult Authority had three investigators.

Chairman Kimball stated one reason prisoners convicted of narcotics offenses may be released too soon is that the Adult Authority is not getting the tools to work with from the police agencies who apprehended and prosecuted the prisoner.

Chief Jansen stated that Fred Finsley was told the Adult Authority wanted all the information it could get from investigating officers concerning the full background of the prisoner including reports of crimes not charged. Chief Jansen then

asked if the Adult Authority considered such information.

Mr. Spangler stated the Adult Authority would consider any information furnished by the police. However if it were, for example, a hearsay statement of the officer that a defendant charged only with possession was a peddler the Adult Authority would evaluate it. It would call in the prisoner and ask him if he were a peddler. If the prisoner denies peddling the Adult Authority will weigh the prisoner's denial against the hearsay statement of the officer.

Mr. Binns asked if investigative reports were to be submitted by the police to the Adult Authority would there be a likelihood that such information would leak out to the inmates.

Mr. Park stated that such information would be safe because of the caliber of the professional staff. Every effort is made to keep such information from the prisoners.

Mr. Spangler stated that where a defendant is charged with possession and sale and a plea is taken to possession, the Adult Authority has only the possession charge before it if the count charging sale has been dismissed by the court. However if the police furnished information that a man charged with possession is a peddler, the Adult Authority will fix a longer term.

Mr. Storer stated that in his opinion too much emphasis is placed by the courts and by the Adult Authority upon the question of whether a narcotics laws violator was an addict or a non-addict.

Mr. Storer then propounded the following questions:

1. Isn't a man who is an addict-peddler less likely to be rehabilitated because of his addictive personality than a non-addicted peddler?
2. Isn't a man who is an addict-peddler more of a menace because once on the streets he starts to use, then begins to proselyte and recruit new addicts?
3. Because of the addict-peddler's potential danger to the community and his small chances of success on parole, should the length of a prison term be less for an addicted peddler merely because he is an addict rather than a non-addict?

4. Since the non-addicted peddler is in the narcotics business because of the profit, if the penalty is great, will he not calculate the risk and discontinue to sell narcotics if he is faced with a long prison term?

Chief Jansen stated no distinction should be made by the Adult Authority as to the amount of narcotics sold. A peddler is a peddler whether he sells three caps or three ounces of heroin. Furthermore it is wrong for the Adult Authority to assume that the only sale the prisoner has made is the one for which he was sentenced. It is more probable and logical that the prisoner sold narcotics whenever he wanted money.

Mr. Neeb stated many addict-peddlers are more of a menace than the non-addict, but the philosophy of the Adult Authority and the courts favors the addict-peddler.

Mr. Storer stated the narcotics traffic is run by addicts, they create other addicts and they live with them. The narcotics problem must be treated seriously and sternly. The moment any person, addict or non-addict, makes the free choice to sell narcotics he should be treated as a dope peddler and is entitled to no sympathy and is deserving of a long and certain prison sentence. With this change of attitude by the courts and the Adult Authority the narcotics problem would shortly be cut 50%. The current philosophy of the courts and the Adult Authority that the addict is a poor victim of the narcotics traffic has caused the courts and the Adult Authority to release such persons after short terms of incarceration. The police must then rearrest the same person time and again.

Dr. Mark Gerstle, the Chief Psychiatrist for the Youth Authority appeared representing Herman Stark, Director of the Youth Authority.

Dr. Gerstle stated that from his experience the non-addicted peddler was in the minority. Dr. Gerstle then read from a report he had prepared on the treatment of addicts. Dr. Gerstle stated that psycho-therapy is the best treatment for addicts. Such treatment should be carried on in groups because the addict exhibits more candor and he soon finds that others share his fears.

Dr. Gerstle stated that the Youth Authority is only now beginning to come to grips with the narcotics problem. Dr. Gerstle stated his written report on psycho-therapy for addicts is only an outline of what he would like to do.

Up to now there is no concerted plan within the Youth Authority to deal with narcotics. To date no policy had been enumerated by the Director of the Youth Authority to treat addicts uniformly.

Dr. Gerstle stated narcotics addiction is caused by poverty and by maladjusted groups.

Chief Jansen asked if the Youth Authority had changed its policy as to the length of terms for narcotics offenders. Dr. Gerstle replied it had not been changed to his knowledge.

Chief Jansen commented that some people in corrections had lost sight of the deterrent effect of a longer sentence.

Dr. Gerstle replied that a longer stay in prison is helpful in some cases, in others it may be detrimental because it increases hostility.

Dr. Gerstle stated the record of rehabilitation of addicts throughout the United States is very sad. The rate of readdiction after hospitalization is over 90%.

Three things are essential for the successful treatment of the narcotics addict.

1. Closer mandatory control and supervision after release.
2. A change of environment.
3. A better attitude about life must be instilled in the addict.

The addict who is receiving hospital treatment or treatment within the Youth Authority should not be released until the doctor in charge of his treatment has assured himself that the addict's attitude has improved.

Dr. Gerstle said the Youth Authority should have more money in order to hire more parole agents so as to reduce their case load.

Mr. Denning, the Legal Counsel for the Department of Mental Hygiene advised the Commission that under the law the Department could only accept court committed addicts.

The commitment is for a period of not less than 3 months to 2 years dependent upon the discretion of the superintendent in charge of the hospital.

Furthermore, persons with bad character traits cannot be sent to the state hospital.

Chief Jansen asked if the courts might use the civil commitment as device to dismiss pending criminal proceedings.

Mr. Denning stated that the law requires a separate civil proceeding for civil commitment; any preceding criminal proceedings must be suspended.

In the 1959 - 1960 fiscal year of the 379 addicts in the State hospitals about 50% were in Camarillo, the rest were in Napa and Metropolitan. Out of the total of 379, 178 were from Los Angeles County.

Daniel Lieberman, Chief Deputy Director of the Department of Mental Hygiene was asked to describe the type of treatment offered by the Department.

The patients are all court committed for 90 days to 2 years. Generally they stay about 3 months.

Upon being released from the hospital they are placed on leave of absence to the Department of Social Work for the social services provided by that department.

Mr. Lieberman stated that very few of the addicts who come to the hospital go through withdrawal. The treatment program in the hospital is as follows:

1. Because many addicts have nutritional deficiencies they are given vitamins and special diet to build them up.
2. Then are given a complete medical examination to see if some medical problem brought on the addiction such as severe pains from osteomyelitis. If there is such a problem the patient is treated for the problem.

3. The patient is given a psychological examination. If the patient has a psychosis this problem is treated and this may eliminate the addiction problem.

4. The hospital tries to establish a good pattern of living habits including regular hours of sleep and regular meal time.

5. The addict-patient is given some vocational guidance.

6. The Department does not give intensive psychotherapy because the department does not have the staff and because the department is not sure it is a good treatment technique. The department does conduct group therapy sessions in which the addict has an opportunity to reassess values and meet with people with similar problems.

Dr. Lieberman stated that the department tries to motivate the individual to seek support outside the hospital to help him achieve a cure. The department has no follow-up statistics to show success or failure on release. A few, not many, find their way to the out-patient clinics but for the most part the released addict is lost to the department after he leaves in 90 days.

Dr. Lieberman was asked if addicts were segregated in the mental hospital. He stated that the addict initially is kept in a locked ward with mental or alcoholic patients. After a period of time he may be moved to an open ward.

Chairman Kimball inquired as to whether there were any advantages to a separate hospital facility for addicts.

Dr. Lieberman stated there were advantages to separate hospital facilities because special attention can be given the addict, and the staff can concentrate on the treatment of the addict.

Mr. Storer stated a separate hospital might induce more addicts to voluntarily commit themselves because they are not put in with what the addicts call "nuts and drunks."

Dr. Lieberman stated that the staff doctors feel that addicts are disruptive of the hospital program, they steal and they seduce women who are mentally ill.

Dr. Blain said he would be willing to consider setting up a special wing at Camarillo for concentrated treatment of the narcotic addict.

We could come up with a research program on federal grants to study such a narcotics hospital. Right now the Research Department has a 2½ million grant.

Chief Jansen asked if such a special hospital would be any more successful than Lexington.

Dr. Blain said it would achieve greater success if it were hitched to a research project.

Dr. Blain said it would be no problem at all to allocate a wing on a ward in an existing hospital for such a program. He stated such a program would be worth doing. It might be necessary to ask for a change in the law or permit the hospital to make a special sepection of the addicts suitable for treatment.

Mr. Storer commented that the number of commitments would increase if the hospital were willing to accept more than voluntary commitments.

Dr. Blain stated that his department would like to have some control over the method of selection.

Dr. Blain stated he would give certain consideration to the acceptance of more addicts, but in order to achieve any success it would be necessary to have mandatory follow up supervision and control for a long period of time.

Mr. Storer stated caution should be exercised to prevent the use of such a hospital as a refuge to escape criminal prosecution.

Dr. Blain stated he did not envision such a hospital as a substitute for criminal prosecution for an offense other than addiction.

Dr. Blain stated he was optimistic about the probabilities of a successful treatment for narcotics addicts if coupled with research. As an example of treatment success we need only look to the 90% record of cure among the physician-addict. The probable reasons for this great success in effecting cures is the economic motivation -- the doctor is afraid of losing his license to practice medicine.

Dr. Blain stated that Lexington's great weakness is the lack of follow up supervision and control.

The disadvantage of having one state hospital treating addicts is that social ties are broken if an addict is sent from one part of the state to another. However 2 narcotics hospitals, one in Los Angeles, and one in San Francisco would be enough to take care of this problem.

Dr. Ross stated that at the request of Allen Post, the Legislative Analyst for the State of California the Department of Mental Hygiene prepared a 5 year research project for the treatment of addicts, which was submitted to the legislature and turned down. Dr. Blain stated the legislature turned this hospital proposal down in favor of the Department of Corrections proposal for the Narcotics Treatment Control program.

Mr. Storer commented to Dr. Blain that the Department of Mental Hygiene was doing a much better job than the Federal hospital at Lexington, and for that reason the Department of Mental Hygiene should push its own Narcotics Treatment program as aggressively as does the Department of Corrections.

Dr. Blain said that the great weakness of the Treatment program of the Department of Mental Hygiene is the lack of funds and personnel for adequate follow up supervision and control.

Mr. Ron Beattie, Chief of the Bureau of Criminal Statistics was asked to discuss the statistics he was compiling on narcotics law violators.

Prior to 1959 this State did not have good statistics on narcotics crimes. The legislature has authorized the collection of an individual report of every arrest charging a narcotics law violation for study by Mr. Beattie's office. Mr. Beattie is also collecting supplemental reports and CII records on each case. For 1960 Mr. Beattie expects his records to be 98% accurate. The police cooperation has been excellent.

Mr. Beattie stated it was difficult to get the disposition of each narcotics misdemeanor. He suggested that the Commission should consider recommending that a summary of a municipal court abstract be prepared for the Bureau on each narcotics misdemeanor.

Another problem faced by Mr. Beattie is that of accurately identifying each person on whom he gets a report or cases where there are other reports involving the same name.

Mr. Beattie suggests that the problem could be solved if the official superior court records carries the defendant's CII number or his booking number.

The Bureau makes out a card on each new person reported indicating vital statistics, prior criminal and narcotics record. About 1500 total new separate arrests are reported each month.

For the first 6 months of 1960, 90% of those reported had a prior criminal record.

60% had a prior narcotics record. One-fourth of these arrested had been arrested once before within the last 14 months.

Mr. Beattie was asked if the Bureau of Criminal Statistics based its total of the number of felonies reported on the total of felony bookings. Chief Jansen pointed out that some police departments, including the Los Angeles Police Department book all narcotics code violators as felonies and then re-book anyone suspected of being a misdemeanor only.

Mr. Beattie stated his statistics were based on the actual charge or on the charge for which the defendant was eventually booked.

Chief Jansen pointed out in the San Diego area because of Federal Court pressure young servicemen with good records caught with narcotics were permitted to plead to a misdemeanor dangerous drugs violation to escape stiff federal sentence and a felony record.

In the first 6 months of 1960

- a. 2/3 of all narcotics arrests in Los Angeles County, 78% came from Southern California.
- b. There are 6 men to every woman.
- c. 6% of all arrests are boys under 18.
- d. 1% are girls under 18.

e. Of the total arrests made 13% of all felony arrests involve heroin, 27% of all felony arrests involve marijuana, 37% are charged with addiction, 15% are charged with possession of dangerous drugs, 8% involve miscellaneous charges including driving while under the influence of narcotics, forgery of a prescription, etc.

f. 90% of all persons arrested for a narcotics offense have a record of recidivism.

g. 97% of those arrested for being addicts are recidivists.

h. 93% of those arrested in Los Angeles are recidivists. 55% of the persons originally booked in Los Angeles for suspicion of a felony narcotics law violation are re-booked for misdemeanors (addiction or for a violation of the Business and Professional Code). 48% of the felony cases processed by the Los Angeles Police Department in Los Angeles result in convictions. 42% of the persons eventually booked for misdemeanors are convicted. In summary, out of 100 narcotics arrests (originally booked as felonies) 45 are charged as felonies, 55 as misdemeanors. Of every 100 cases originally booked as felonies 45 result in a conviction. 24% of all persons originally booked for a felony go to State prison, or about one-half of those eventually charged with a felony.

Mr. Beattie was asked to comment on the Nalline program of the Department of Corrections.

Mr. Beattie stated that the Attorney General's office receives a copy of the physician's report who administers the nalline test. These records show at least 2 men (Baca and Thomas) went to Chino 3 times.

Mr. Beattie states his office needed additional personnel to properly evaluate the records submitted by doctors involved in nalline testing.

Mr. Beattie stated Alameda and Santa Clara counties are not submitting any reports on nalline testing.


Chairman Kimball stated the use of nalline should be studied for the Commission's final report.

Mr. Beattie stated some of the parolees are permitted to stay in the community even after 4 positive tests in a row.

Distribution:

1 copy to each member
1 copy of ltr., by Mr. McGee

Respectfully submitted,


Arthur L. Alarcon
Project Director

ALA:mef

AGENDA

September 14

1. Daniel Blaine, M.D. Director of the Department of Mental Hygiene

To discuss the present program of the state mental hospital for the treatment of narcotics addicts and their aftercare or supervision and control of such persons after release, and his recommendations for new legislation.

2. _____, representing the California Youth Authority.

To discuss the program and policy of the Youth Authority with reference to the rehabilitation of the narcotics law violator while in custody and the desirability of changes in our present penalties, and his recommendations, if any, for new legislation.

3. _____ representing the Department of Corrections.

To discuss present program of the Department of Corrections for the rehabilitation of narcotics law violators while in prison and his recommendations for changes in penalties or other laws.

AGENDA
Los Angeles
September 21

1. 9:30 A.M. William B. McKesson
District Attorney
Los Angeles County

He will discuss his recommendations re punishment, Cahan, Priestly, and any suggestions he has for dealing with the narcotics problem.

2. 10:15 A.M. Peter J. Pitchess, Sheriff
Los Angeles County

He will discuss his recommendations re punishment, Cahan, Priestly. Also his opinion as to whether addicts should be segregated in the County Jail and what program is offered in the County Jail for the treatment of addicts.

3. 11:30 A.M. Charles Hurley, M. D.
Doctor in charge of testing for narcotics addiction
in East Los Angeles office of Adult Parole Department.

He will discuss Nalline as a drug and Lorfam which is a synthetic and may be used in lieu of Nalline.

4. 3:15 P.M. William H. Parker
Chief of Police
City of Los Angeles

He will discuss recommendations re punishment, Cahan, Priestly. Also discuss availability of Police reports for the Adult Authority.

AGENDA
For the
Los Angeles Meeting of the
California Special Commission
on
Narcotics
for
July 20, 1960 at 9:45 A.M.

I. Correspondence

- a) Doctor Quinn's Letter
- b) Henning's Report
- c) Letter from Chief Jansen

II. 10:00 A.M. - Doctor Stuart Knox - Representing the California Medical Association. Doctor Knox will discuss our present narcotics laws and his views as to narcotics addiction - its causes, treatment, and cure, and his recommendations for changes in our laws.

III. 2:00 P.M. - The Honorable Lewis Drucker, Judge of the Superior Court (formerly a member of the Adult Authority) representing the Los Angeles Superior Court. Judge Drucker will discuss the adequacy of our present narcotics laws with particular reference to punishment and priors. He will also discuss his views on judicial discretion in the fixing of county jail sentences or the granting of probation in narcotics cases.

IV. 2:30 P.M. The Honorable Gerald C. Kepple, Judge of the Municipal Court (formerly a member of the Youth Authority). Judge Kepple will discuss the present court procedures for the obtaining of a search warrant and the availability of a magistrate after court hours for the issuance of search warrants.

March 31 1960

Notes on telephone conversation with James Reilly, DAP, Los Angeles re committee meeting in Los Angeles.

Committee members are: Chairman - John P. Weitzel, Deputy Secretary of
Treasury
Otis E. Mulligan, Deputy Director, Office
of International Economic
and Social Affairs, Dept. of State
Dr. James V. Lowry, Assistant Surgeon General, USPHS
William G. Hendlie, Dept. of Justice

First speaker was Mayor Poulson of Los Angeles. Spoke and recommended White House Conference on Narcotics. Stated narcotics national and international problem and No. 1 social problem.

Second speaker was Frank Bonelli, Chairman, Los Angeles County Board of Supervisors Bitter at Governor because he did not call special session. "Fault lies in Sacramento". . . . "We are going to lose 18 months because Governor failed to call special session." State and Federal Government work together as problem is national and international. Relationship between city, county, state and federal must be improved -- cooperation throughout. Recommends simple passport for crossing U. S. - Mexico border.

Third witness was Supervisor Hahn of Los Angeles. He proposes and wants to stamp out narcotics at source. Bitter against State and Governor's failure to call special session. Referred to Elks Club petition and Dills Bill. Referred to California as "revolving door - in and out of prison". Critical of individuals convicted of prior felonies going to prison as "first termers" and going on parole as "firsttermers". California laws too weak -- too difficult to enforce. Recommends introduction of narcotic evidence regardless of how obtained; stiffer sentences. Wants joint commission between U. S. and Mexico - closer cooperation. Next, Supervisor Dohrn - "same as Hahn"

Fifth

Fifth witness - Sheriff Pitches -- Told in great detail of increase in crime and addiction. Compared addiction to contagious disease. Says State, city, county law enforcement men doing adequate job, but cannot pursue source. When asked "Would longer sentences in prison help", Sheriff replied "Longer sentences not the answer." Concerned about source of heroin and inability of law enforcement to stop. Talked about exclusionary rule, necessity to name informer, lack of being able to introduce evidence into court. Did say State officials haven't been impressed sufficiently.

Next witness - Sheriff Joe Rice - Riverside -- opposed to disclosure of informant and exclusionary rule.

Then, County Counsel Kennedy of Los Angeles - pushing White House Conference seeking amendments to State law. Complained of exclusionary rule. Critical of Governor and particularly a statement the Governor made regarding unconstitutional to pass laws of _____. Believes it up to State. ~~Referenced~~ Critical of Adult Authority regarding early release of prisoners. Mentioned proposals worked on by committee composed of Kennedy, Holton, Pitchess, McKesson re terms -- suggested that minimum of five years be served on possession of narcotics (term is now 5 to 20 years); a second term - the sentence is now 15 to life and inmate should serve 15; regarding furnishing narcotics to minor - first term sentence now 10 to life and inmate should serve five before eligible for parole; second term - ten to life and should serve ten; third term - ten to life and should serve 15. Adamanant about disclosing informer and method evidence can be introduced.

Next witness - Charles Deterich - Board member of Synamon Foundation of Santa Monica.

Committee trying to determine attitudes and facts in Los Angeles and promised to obtain all information and report back to President. Hearings will continue on 4-1 and possibly 4-2.

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SEPTEMBER 21, 1960

PRESIDING: Mr. Harry M. Kimball

TIME: 9:30 A.M.

PRESENT: Mr. Harry M. Kimball, Chairman
Mr. Walter Binns, Member
Mr. John E. Storer, Member
Mr. Robert A. Neeb, Jr., Member
Chief A. E. Jansen, Member

Mr. Arthur L. Alarcon, Project Director

William B. McKesson, District Attorney
Los Angeles County

Manley J. Bowler, Chief Deputy District
Attorney of Los Angeles County

Peter J. Pitchess, Sheriff of
Los Angeles County

Fred Fimbres, Chief of Administration
Los Angeles County Sheriff's Office

William O'Keefe, Lieutenant
Los Angeles County Sheriff's Office

William H. Parker, Chief of Police
City of Los Angeles

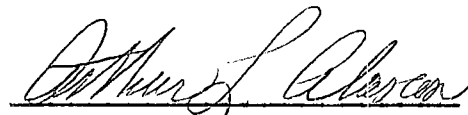
William H. Madden, Captain
Los Angeles Police Department

Charles Hurley, M.D.

The Commission received the views and recommendations of the above named Los Angeles officials concerning the narcotics problem in California. Dr. Hurley discussed the use of Nalline as a means of detecting the use of narcotics.

The meeting was adjourned at 5:00 P.M.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Arthur L. Alarcon", is written over a horizontal line.

Arthur L. Alarcon
Project Director

ALA:ssc

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SEPTEMBER 21, 1960

Presiding: Mr. Harry M. Kimball

Time: 9:30 A.M.

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✓ Mr. Walter Binns, Member
✓ Mr. John E. Storer, Member
✓ Mr. Robert A. Neeb, Jr., Member
✓ Chief A. E. Jansen, Member

✓ Mr. Arthur L. Alarcon, Project Director

✓ William B. McKesson, District Attorney
Los Angeles County

✓ Manley J. Bowler, Chief Deputy District
Attorney of Los Angeles County

✓ Peter J. Pitchess, Sheriff of Los Angeles
County

✓ Fred Fimbres, Chief of Administration
Los Angeles County Sheriff's Office

✓ William O'Keefe, Lieutenant
Los Angeles County Sheriff's Office

✓ William H. Parker, Chief of Police
City of Los Angeles

✓ William H. Madden, Captain
Los Angeles Police Department

✓ Charles Hurley, M.D.

Chairman Kimball asked District Attorney McKesson to state his views and recommendations concerning the narcotics problem in Los Angeles County.

Mr. McKesson stated his recommendations to the legislature would be those contained in the Kennedy Proposal which was endorsed by the Los Angeles County Board of Supervisors and approved unanimously by the District Attorney's Association in Carmel.

Mr. McKesson stated there is a great need to recognize that narcotics law violations are unreported crimes. There is no victim running to the police to report as in the case of a robbery, burglary or theft. The police must go out and find the peddlers on what ever information they can happen upon. As a result the police are required to rely on the informer to trap the peddler. Therefore, the Informer Rule embodied in the Priestley case should be relaxed.

It does not serve the ends of justice or constitutional rights to require the disclosure of the name of informants in narcotics cases. We expect and have a right to demand that our law enforcement officers follow through any tips they receive on a dope peddler. The courts are whittling away society's constitutional rights by a technical, close adherence to due process of law.

Chief Jansen asked Mr. McKesson what his answer was to the concern of some members of the legislature that without the Priestley case police officers would be tempted to invent phantom informers or might lead to a frame-up or a "plant".

Mr. McKesson stated this was a legitimate concern. However, the possibility of a plant is possible but highly improbable. We must rely upon the integrity of public officers. In Democracy we must delegate power to public officials. This power should not be torn down by a cloud of suspicion. We are dependent on law enforcement officials. Society must trust them.

Chairman Kimball remarked that one of the things that goes along with Democracy is that we must place trust in our public officers and in the judgment of district attorney's, judges, and jurors.

Mr. McKesson stated so far as the best interests of society are concerned, it is necessary to protect informers.

In some cases the informer may be a wife, husband, father or mother, who want to help by turning a relative over to the police but fear retribution or the break up of the family because of hatred upon the disclosure that they informed.

Chairman Kimball stated that in cases where an informer was being used to assist in the break up of a large conspiracy it was necessary to keep the informer operating on the streets. If his identity were to be disclosed he would be lost as a useful informer.

Mr. McKesson stated the fear of a false arrest action or of perjury charges was sufficient deterrent to abuse by the police.

Mr. Binns asked Mr. McKesson why such warrants were not used more often in Los Angeles.

Mr. McKesson stated it was difficult, annoying, burdensome, and time consuming for the police to come from all over the county to come in to obtain a search warrant.

Mr. Bowler commented that logically the Priestley case applies to an affidavit for a search warrant which fails to disclose an informant's name. In such cases the court, upon motion, should return the property to the defendant.

Chief Jansen stated that in San Diego the path of police officers is smoothed away if he obtains a search warrant.

Chairman Kimball pointed out that in San Diego the Police Department is furnished with simple forms on special paper which does not require a carbon which can be filled out by the officer without the need to go to the district attorney's office.

Mr. Storer stated we have been told some deputies in the district attorney's office in Los Angeles tell the police if they have probable cause for an arrest they do not need a search warrant.

Chairman Kimball stated we should encourage more use of the search warrant.

Mr. McKesson stated the search warrant has not been used much in Los Angeles because it is time consuming. He further stated that his office has attempted to shorten the time.

Mr. McKesson informed the Commission that he was in favor of the New York Wire tapping procedure and believes that California should adopt it.

Mr. Binns asked Mr. McKesson if the reason he was in favor of the Kennedy Proposal was due to the fact that the same narcotics law violators were constantly being rearrested.

Mr. McKesson stated although he himself is not convinced an increase in penalties is a deterrent the public is concerned with the problem of easy narcotics laws, therefore he is in favor of an increase in the minimum and maximum terms but still leaving with the Adult Authority the power to fix the term.

Mr. Binns stated we find the terms now fixed are not out of line but the chief concern is the fact that narcotics law violators are released too soon.

Mr. McKesson stated he felt that minimum term should be the full minimum not 1/3 of the minimum term.

Chairman Kimball then asked if Mr. McKesson believed the present laws would be adequate if the full minimum term were served. Mr. McKesson replied, "Yes".

Chairman Kimball stated the crux of the problem was the early release of narcotics law violators by the Adult Authority as increase in the minimum is necessary --- the Adult Authority has been provided the tools to fix a proper term but has failed to use them.

Mr. McKesson remarked that the Nalline program might do some good for the supervision of parolees. They can now be kept under close supervision. They are not just turned loose.

Chairman Kimball stated the big problem in California is the repeater. It is wrong to argue we have a space problem in our prisons in order to justify early release. Since, according to Ron Beattie, 90% of our narcotics law violators are repeaters we should get this group off the streets and then our narcotics problem would be cut way down.

Chairman Kimball observed that the Youth Authority had no program for the narcotics offender.

Mr. McKesson stated that this was quite true, the Youth Authority had no program for addicts. Merely locking an addict up is not the complete answer to the narcotics problem.

Mr. Binns asked Mr. McKesson if he agreed with the Kennedy Proposal which would do away with probation in all narcotics cases.

Mr. McKesson said this was unsound. We should permit our judges to exercise full judicial discretion. If we prohibit a judge from granting probation, we are scuttling the whole judicial system. There are bound to be some cases where probation is the best sentence --- after all the judge has the facts before him. Furthermore, the minute you put in mandatory rules the judges will think up ways of circumventing them.

Chief Jansen then asked Mr. McKesson if he agreed with the Kennedy Proposal which eliminates a county sentence as an alternate in narcotics cases.

Mr. McKesson stated he did not agree with this proposal. We must give our judges the right to grant probation and to sentence a man to the county jail if such a sentence would best serve the interests of justice.

Mr. Binns then stated that many judges feel the district attorney's office does not support them on probation and sentence day.

Mr. McKesson stated he didn't think that the district attorney should pass on whether a judge should grant probation or not. The prosecutor's only function is to prevent misrepresentation of facts by a defendant's lawyer.

For a district attorney to plead for a prison sentence makes him a persecutor.

Mr. Binns stated the Adult Authority seems to rely heavily on psychiatrists in granting parole. The Adult Authority claims not to have full information on the entire criminal background of the defendant. On the other hand the Adult Authority has stated that if it gets derogatory information from the police, it investigates such information by asking the defendant if it is true. If the defendant denies he is a peddler, for example, the Adult Authority will accept the defendant's denial unless the police furnish additional evidence on the grounds that the defendant's denial is direct evidence and hearsay.

Mr. McKesson stated the Adult Authority has a copy of the probation report --- they should have the defendant's full background.

Chairman Kimball stated the crux of the problem seems to be that the Adult Authority is not getting the full background of the defendant.

Mr. Storer then asked Mr. McKesson if he was opposed to disallowing probation for narcotics offense as suggested by the Kennedy Proposals, would he (Mr. McKesson) be opposed to a limitation on the Adult Authority's present power to grant a quasi-probation by permitting parole after 1/3 of the minimum sentence.

Mr. McKesson stated that the people of the State of California are opposed to a wide open sentence with discretion in the Adult Authority --- while he (Mr. McKesson) was in favor of such flexibility the people did not understand, therefore we should have a fixed minimum before parole can be considered.

Sheriff Pitchess was asked to give recommendations on curbing on the narcotics problems in California.

Sheriff Pitchess stated there are two approaches to the narcotics problem:

1. To cut off the source of supply.
2. Enforcement activities once the narcotics gets into the state.

The Sheriff stated he was not opposed to telling Mexico that 70% of heroin and 95% of our marijuana comes from Mexico.

More money for undercover buys will help but this is not the answer, not even more cooperation between California and Mexican officials.

The problem of cutting off the source must be handled by the Federal Government of the United States and the Federal Government of Mexico. All we can do is ask our Federal Government to take a stronger role in solving this problem.

Effective efforts by the Federal Government to eliminate the source of supply are as necessary as any enforcement program we may propose in California.

More funds should be available for undercover activity but this is not the answer --- our Federal Government must take action.

Sheriff Pitchess suggested the Commission should consider meeting with Ambassador Hill to discuss this problem.

Mr. Binns asked why the Federal Government has taken no action. Mr. Storer stated one reason might be that Commissioner Anslinger says the Federal Government had done all it can do, it is now up to the states.

Chief Fred Fimbres of the Sheriff's office commented that in Mexico a great number of the federal officers and local law enforcement officers are working with the opium producers and even act as look outs for them. For that reason Army troops must be used in making a raid. This is why only high level negotiations will effectively cut down the source.

Sheriff Pitchess stated the new Adult Authority minimum guide is an encouraging thing and is surely the result of public pressure, but is certainly not to be considered a fixed or permanent policy.

Mr. Binns asked Sheriff Pitchess to comment on the statement that there are no major peddlers in state prison.

Sheriff Pitchess said there are major peddlers who go to prison but they don't stay long enough.

Lieutenant O'Keefe stated many major peddlers have gone to prison after a small buy was made by an undercover officer. However, only a small buy was made because of the limited funds available to the Sheriff's office. The peddler is often willing to supply a large amount but the officer is limited to small purchases.

Sheriff Pitchess stated that the Department of Corrections and the Adult Authority operate under the delusion that the narcotics traffic in California is operated by a few large scale non-addict wholesalers who operate mysteriously from a castle on a hill.

The truth is that in California there are no large scale syndicates composed of a few non-addicted persons --- instead there are many, many, peddlers operating throughout California. Every addict is a potential peddler. Anyone who owns a car can be a peddler by driving to Tijuana.

Chief Jansen stated that in San Diego the Federal Custom's Agents have 10 pages of license numbers of automobiles used to smuggle narcotics from Mexico. There are thousands of peddlers who smuggle across the border. Prior to World War II there was a combine operating in Southern California. Since World War II many, many, peddlers have moved into this lucrative field.

Chairman Kimball pointed out that 90% of the persons arrested for narcotics violations in the last 14 months according to the Bureau of Criminal Statistics are repeaters.

Chairman Kimball then asked if we had a fixed minimum sentence of 5 years for peddling would this not break the back of the narcotics problem. Chief Fimbres stated in his opinion it would.

Mr. Binns then asked Chief Fimbres if he didn't feel that the addicted-peddler is a sick person and should be treated as a poor victim of the narcotics traffic rather than be sent to prison.

Chief Fimbres replied that the addict-peddler is the one who operates in the field converting others to the use of narcotics to bolster his profits.

The peddling problem is created by the multitude of addict-peddlers, not the small number of non-addicted peddlers.

Chairman Kimball asked Sheriff Pitchess if any of the addicts who are arrested could be helped by hospitalization.

Sheriff Pitchess stated the addict is a medical problem but he must be apprehended and locked up before he can be cured.

Sheriff Pitchess stated the Sheriff's office has no rehabilitation program for addicts, but at least they are being isolated and society is being protected while they are

out of circulation.

The Los Angeles County Sheriff's office had a program for addicts but had to abandon it when the psychiatrist and the vocational therapist resigned. Because of the low pay no new ones can be recruited.

Mr. Binns asked how many peddlers are also addicts.

Chief Fimbres stated the great mass of peddlers are also users with the greatest motivation to spread addiction.

Chief Jansen commented that no distinction should be made between peddlers and non-peddlers.

Mr. Storer stated the courts and the Adult Authority have created a privileged criminal class --- the addict-peddler. This group constitutes the greatest menace.

Mr. Binns stated the courts and the Adult Authority is sitting back waiting for a major non-addict peddler to crack down on. But, in reality, there are very, very few non-addict peddlers in California.

Sheriff Pitchess stated he felt it was wrong to segregate addicts in the county jail. Addicts when segregated, consider themselves a privileged class. They sympathize with each other, try to smuggle dope into the jail. When addicts are put into cells with non-addicts they get no sympathy, no help in getting narcotics.

Sheriff Pitchess stated there must be some relief from the Exclusionary Rule to help enforce the narcotics laws. The Sheriff stated he was asking this relief only in the narcotics field.

Sheriff Pitchess commented that the Priestley and Cahan cases took the discretion away from the courts from deciding a case on the merits.

Sheriff Pitchess stated he was not opposed to the Cahan case, it is not bad law except in narcotics cases. In this field it is too restrictive because narcotics crimes are unreported.

Sheriff Pitchess suggested a relaxation of Cahan for a limited time until the narcotics problem is controlled.

Then we could return to the Exclusionary Rule.

Mr. Storer stated we might get out on a limb in relaxing Cahan because the Commission had been told that the courts and the legislature in Michigan were very concerned with the Michigan Exception to the Exclusionary Rule because of police abuses. There were reports that every case was called a narcotics case to explain away a roust.

Sheriff Pitchess stated that in his discussions with police officials from Michigan he was under the impression the law was working well.

Sheriff Pitchess stated the extent of the narcotics problem in Southern California is not understood in Northern California. Since the narcotics problem is very small in Northern California they do not feel the restrictions of the Priestley and Cahan cases.

As to the Kennedy Proposal, Sheriff Pitchess stated this legislative program is moderate and reasonable. The Sheriff then pointed out that the Lindberg Law had a deterrent effect on kidnappings.

Also, Sheriff Pitchess stated the Adult Authority minimum guide can be changed tomorrow.

Dr. Charles Hurley is in charge of administering nalline tests at the East Los Angeles testing station for parolees.

Mr. Binns asked if there was any danger of addiction from nalline.

Dr. Hurley said that if nalline were taken 3 times a day 15% of the individuals tested feel a reaction which is not unpleasant. About 10% feel a flash reaction like a skin pop --- like a bum dose; it reminds them of taking heroin.

Because of this reaction, Dr. Hurley stated he advocated the use of lorfan. All those individuals (10%) who have a psuedo-narcotic reaction are given lorfan.

Using lorfan gives less papillary response in some persons but without any difficulty in determining the difference between a negative and positive test.

Lorfan is non-addicting. It has all the qualities of detecting addiction but with less papillary reaction.

The only way the nalline or lorfan test can be successfully beaten is to stop use 3 or 4 days before the test. However, a person using a codeine derivative, or cherocol, can beat it.

The parolees are tested once a week at the same time on a regular schedule.

In the pilot program out of 209 in the control group 43 have shown positive. 93 have never shown positive at all. Of these some may have been equivocals --- some of them have been jailed for other reasons.

2 of those who came in positive on their first test are now negative each week.

We have some who tested positive one or two times.

Mr. Storer asked Dr. Hurley if it is true that this was a controlled addiction program because of the possibility of beating the regular test by taking heroin 3 days before the test.

Dr. Hurley stated that this was true. Mr. Storer asked if nalline was better than lorfan as a test.

Dr. Hurley stated that lorfan can be substituted in over 68% of the cases. An individual will come out positive under lorfan as often as under nalline.

The weaknesses of the Nalline program --- A man can chippy with heroin and beat the test. Further, immediately after a nalline injection an addict can take a fix and get the desired reaction by taking a larger dose than is usually necessary, in order to overcome the effects of the nalline.

The recommended procedure for the administering of nalline now in print must be completely disregarded.

After further testing of lorfan it may be recommended as a substitute because:

1. It is not a narcotic.

2. It has fewer side reactions.
 3. It is cheaper.
 4. The psuedo-narcotics effects are nil.
-

Chairman Kimball stated the Commission should support the present law restricting the striking of priors because of its deterrent effect.

Mr. Neeb stated there should be a paragraph in our report clarifying concept about the non-addict peddler. It should be pointed out that there is an army of addicts crossing the border to purchase heroin. The myth of the syndicate chieftain in the castle must be exploded. The courts are presently coddling the addict-peddler, as a so-called victim.

Mr. Storer stated that the peddler does not fear our present punishment policies, his only concern is the loss of his car.

Chief Jansen stated that as proof that there is no syndicate in narcotics, in bookie cases where there is a syndicate operation, the syndicate pays the bail and gets the lawyer. This is not true in narcotics cases.

Chief Kimball stated the chief problem that is emerging is the release policy of the Adult Authority.

Mr. Storer stated that if county jail sentences were abolished and if the Adult Authority could not release for 5 years a panic would set in and reduce the narcotics problem.

Chairman Kimball asked Chief Parker to give the Commission his views and recommendations on the narcotics problem.

Chief Parker stated the major problem in Southern California was the available source of narcotics in Mexico.

Chief Parker stated he was considering abandoning some of the things he was presently doing because of the lack of cooperation from the Governor, the Legislature, and the State Bar Association. The Chief said he didn't see why he

should send young officers, at great risk to themselves, into dens of iniquity, only to see the results of their work criticized and condemned.

In 1960 narcotics arrests are up 32%. This is ample proof nalline is not solving the narcotics problem.

Chief Parker stated the Governor would oppose a change in Cahan. The State Bar Association now claims it is a constitutional question and that Cahan can't be touched.

The District Attorney's Association program will be presented to the legislature, and if they refuse to adopt it, petitions will be secured to force it on the ballot.

Chief Parker stated the Cahan case should be modified --- this would eliminate the Priestley problem. The Williams and Lawrence cases can't be touched because they involve questions of due process of the law.

The Michigan exception to the Exclusionary Rule has stood up under three appeals to the Supreme Court. This exception can be adopted in California by a simple legislative act.

Chief Parker stated the District Attorney's program is going through regardless of what this Commission recommends.

Chief Parker was asked if he could prove statistically how crime has been affected by Cahan and Priestley.

Chief Parker stated it was impossible to answer this question with any accuracy, however, in 1960 the same number of people will commit 2 1/2 times the crimes committed in 1950.

Chairman Kimball asked if Chief Parker felt it would be enough to have a fixed minimum term rather than new longer sentences.

Chief Parker said the Adult Authority should develop IBM statistical methods in determining a release date by predicting performance on parole based on study of a profile of past history.

Chairman Kimball stated the Adult Authority has complained that they are not getting police records from the Los Angeles Police Department.

Chief Parker stated that the Los Angeles Police Department never agreed to furnish a detailed background of a man to the Adult Authority.

Chief Jansen asked Chief Parker if the Commission proposed a mandatory minimum would he be in favor of it. For example, a fixed five years for peddling.

Chief Parker said he would favor such a bill. We must give no quarter in the fight against dope peddlers. They must face the certainty of a long term in jail if they peddle narcotics.

Chief Parker stated he does not see how any judge can justify the destruction of the truth by striking or ignoring a prior conviction.

Chief Parker stated the judges want the same chance as the Adult Authority, to be as lenient as possible.

Chief Parker said the addict-peddler, even though a small peddler, is a very dangerous man. He has adopted a different life without laws, morals, or principles.

Mr. Storer commented that the big problem in California is the addicted-peddler and he is the hardest to rehabilitate.

Captain Madden stated that the addict-peddler is the major menace in California (he sells to children and induces them to become addicts). If the addict-peddler is put away for 5 or 10 years he cannot harm others and spread addiction.

Chief Parker was asked to comment on nalline. Chief Parker said the Los Angeles Police Department uses nalline with the permission of the prisoner.

The Narcotics Treatment Control program is a form of custody with a small case load, etc. The Parole Agent is a monkey on the back of the addict-parolee.

The danger of such a program is that it is seized upon

as a cure all panacea --- as a total solution to the narcotics problem. It has not cut down on the narcotics problem after 1 year. Narcotics crimes has risen 32% this year.

The biggest mistake in the pilot program is the routine scheduled testing. It is a form of controlled addiction. The addicts are pacing their use.


The total number of narcotics arrests is 5,011 out of 165,000 arrests.

Chief Parker said search warrants were unnecessary when the officer had probable cause to make an arrest. A search warrant limits you to the items named.

Distribution:

1 copy to each member

Respectfully submitted,



Arthur L. Alarcon
Project Director

ALA:mef

TENTATIVE AGENDA

Meeting of Special Study Commission on Narcotics

October 19, 1960 - Sacramento, California

- | | | | |
|------|------------------|---|-------------------------------|
| I. | 9:15 A. M. | - | Dr Norman Nonof |
| | <i>9:30 A.M.</i> | - | <i>Norman Nonof</i> |
| II. | 10:00 A. M. | - | Attorney General Stanley Mosk |
| III. | 11:00 A. M. | - | Dr. Harry Kamp |
| IV. | 1:30 P. M. | - | Mr. Richard A. McGee |

MINUTES OF THE MEETING
OF
THE SPECIAL STUDY COMMISSION ON NARCOTICS
HELD IN CONJUNCTION WITH
SHERIFF'S ASSOCIATION MEETING
HELD OCTOBER 28, 1960
PALO ALTO, CALIF.

TIME: 9:30 A.M.

PRESIDING: Mr. Harry M. Kimball

PRESENT: Mr. Harry M. Kimball, Chairman
Mr. Walter S. Binns, Member
Mr. Robert A. Neeb, Jr., Member

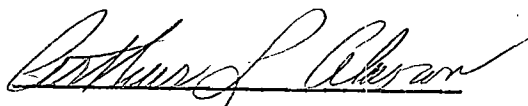
Mr. Arthur L. Alarcon, Project Director

All members of the California Sheriff's Association

The Commission met with the California Sheriff's Association to learn the views of its members concerning the narcotic traffic in California.

The meeting was adjourned at 5:00 P.M.

Respectfully submitted,



Arthur L. Alarcon
Project Director

MINUTES OF THE MEETING
THE SPECIAL STUDY COMMISSION ON NARCOTICS
HELD IN CONJUNCTION WITH
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HELD OCTOBER 28, 1960
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Time: 9:30 a.m.

Presiding: Mr. Harry M. Kimball

Present: Mr. Harry M. Kimball, Chairman
Mr. Walter S. Binns, Member
Mr. Robert A. Neeb, Member

Mr. Arthur L. Alarcon, Project Director

all members of the California Sheriff's Association

The Attorney General opened the meeting of the Sheriff's Association by discussing the crime statistics for the first six months of 1960 from the Department of Justice publication entitled, "Crime in California." Crime has increased 12.6% for the first six months of 1960 over the first half of 1959. This is the greatest rise in reported crime for any previous six-months' period since the present statewide reporting system was commenced in 1954. This overall rise in crime is proportionately greater than the increase of the total population for the same period. The Attorney General distributed copies of the publication referred to. The Attorney General reported that narcotics felony arrests have increased 18.5% in the first six months of 1960. However, narcotics felony complaints filed were down 2.5%. Narcotics felony filings are down 5.3%. Defendants charged with narcotics felony offenses and convicted therefor have increased 3.6%. Defendants sentenced to state prison for narcotics offenses have decreased 3.4%.

Chairman Kimball introduced the Members of the Commission present and stated that it was his desire to have the Commission and three sheriffs sit as a panel and discuss narcotics problems in an open study session. Sheriff Herbert H. Hughes of Imperial County, Sheriff Bert Strand of San Diego County and Peter J. Pitchess, Sheriff of Los Angeles County sat with the Commission in its study.

Chairman Kimball stated that the Narcotics Commission was a study group. As such the Commission issued no press releases. Twelve meetings have been held throughout the State of California with representatives of the various groups interested in reaching solutions to the narcotics problem.

Chairman Kimball asked Sheriff Pitchess to state what the source of supply of narcotics was in Southern California.

Sheriff Pitchess stated that the Los Angeles County Sheriff's Office had spent three years conducting a survey as to the source of narcotics. This survey involved a chemical examination of the heroin and marijuana seized by the Los Angeles County Sheriff's Office and also a physical examination of the wrappings or packaging of these narcotics. As a result of this survey it was determined that at least 70% of the heroin seized in Los Angeles County came from Mexico and 95% of the marijuana seized came from the same country. Sheriff Strand of San Diego County stated that from his own experience these percentages were accurate. Sheriff Hughes of Imperial County stated that his county sits right on the Mexican Border and it was his experience that all of the narcotics found in Imperial County came from Mexico.

Chairman Kimball stated that during World War II very little narcotics came through the United States seaports because of the intensive search made of each ship. Since the War, however, because of insufficient manpower very little searching is done at the seaports.

Sheriff Strand of San Diego County stated that the way to end or curtail the narcotics problem in California was to increase the number of Customs Officers at the Border. A thorough search should be made of each car crossing the Border. Sheriff Strand pointed out that 200,000 automobiles cross the Border every week-end. If these cars were to be searched it would slow Border crossing to a standstill. This would discourage Americans from going to Tijuana, which in turn would force Tijuana businessmen to bring about a clean-up of vice and narcotics in order to eliminate such rigid controls. Sheriff Strand said that only by such an indirect economic pressure could anything be done to bring about a clean-up in Mexico.

Sheriff Pitchess stated that one of the major problems in California concerning the punishment of narcotics law violators was the false concept which had been developed that there are syndicates controlling the narcotics traffic with non-addicted wholesalers living in mysterious castles on hills. Sheriff Pitchess said that from his experience in Los Angeles County he was convinced that there is no one big syndicate, nor an organized ring dealing in narcotics in California. Instead the narcotics traffic is run by many people. There are almost as many peddlers of narcotics as there are addicts.

Chairman Kimball stated that there was an erroneous assumption made by the Department of Corrections that there are no large-scale peddlers in state prison. This assumption was based on a definition made by the Department of Corrections on large-scale peddling as involving three ounces or more per sale. Chairman Kimball pointed out that because of a limited budget the State Bureau of Narcotics Enforcement, for example, could not purchase large amounts of heroin even though the peddler was ready, willing and able to supply any amount desired. Chairman Kimball said it was wrong for anyone to assume that merely because a defendant is arrested for making a sale of a small number of capsules that he is not deeply involved on a large-scale basis in the narcotics traffic.

Mr. Binns was asked by Chairman Kimball to give some of the highlights of his trip to Ohio during which he studied Ohio's narcotics problem and the effect of increased penalties upon the narcotics traffic.

Mr. Binns stated that the thing that impressed him most was the attitude of all persons involved in the administration of justice with reference to law enforcement. Judges and defense attorneys were high in their praise of the narcotics squads in the various cities visited. Prosecutors, probation officers and judges who were interviewed all felt that Ohio was doing a good job in solving the narcotics problem. The reason that they all shared in this good feeling concerning narcotics was that each felt they had accomplished something in Ohio.

Mr. Binns stated that not until he visited Ohio did he encounter officers who talked about former addicts who had cleaned up and were now working. This was in contrast to the usual statement heard in other areas that addicts can never be cured and will never clean up. Mr. Binns reported that he was told in Ohio that some of Ohio's addicts had left after the laws were changed and had gone back to the South. The Commission was told that medical practice in the South was very lax concerning the prescribing of narcotics. Apparently narcotics can be procured from doctors in some Southern states with little effort.

Mr. Binns stated that he was impressed with the new crime of possession with the intent to sell which exists in Ohio. Under this crime the prosecution can bring in the entire background, record and habits and associates of a defendant to prove his intent.

In Ohio the police apparently have no problem in inducing informers to come into court to testify against narcotics law violators. This is due to the fact that in each narcotics case the officers charge the crime of sale which carries a 20-year sentence and possession with the intent to sell, which carries

a 10 to 20-year sentence. A defendant so charged is eager to testify so that he may be allowed to plead guilty to the lesser offense of possession to sell or to only one of several counts of sale.

Mr. Binns stated that Mr. Cooper, a defense lawyer who was interviewed in Cleveland, told him that it was surprising how eager his clients were to plead guilty in the hopes of receiving only one 20-year sentence rather than three or four consecutive sentences.

Mr. Binns stated that while he did not feel that 20 years was necessary, narcotics law violators in California should know that when sentenced they will serve a definite, certain number of years in prison.

Mr. Binns also pointed out that judges in Ohio are pleased with the new penalty provisions because the courts were left with the discretion to grant probation or to suspend sentence for the occasional hardship case. Also, parole is available in Ohio even for the crime of selling narcotics. However, even with parole, a narcotics peddler must serve a minimum of 13 years for a first offense.

The probation office in Cleveland claims credit for the new, stiffer penalties in Ohio. The Commission was told that because of the prior probation experience with narcotics law violators the probation department in Cleveland told the courts to give each defendant a non-probationary sentence.

Mr. Binns was asked if there was any feeling that this power of strong punishment was being misused in Ohio. Mr. Binns stated that the police in Ohio were very careful not to abuse the strong support that the courts are giving law enforcement by presenting weak or poorly prepared cases.

Mr. Neeb asked the Sheriffs present at the meeting if they felt that there was a need for a more certain penalty to act as a deterrent and whether if the minimum present terms were "beefed up", would this itself meet the problem.

Sheriff Candlis stated that there is no certainty at the present time of punishment in California. He said that law enforcement was not in favor of the death penalty, nor any other extreme punishment for narcotics law violators. Law enforcement, however, is in favor of two things:

1. There must be a certainty of punishment.
2. The law must be followed by the courts and the Adult Authority.

Sheriff Vic Tibbs of Monterey County stated the members of the Adult Authority should have controls placed upon them so they cannot turn narcotics law violators loose after a short stay in prison. He stated that as a sheriff of a county in which there were Department of Corrections facilities he was in a position to see persons go from his county to the state prison and out again to continue their criminal pattern after serving short, minimum terms. He stated that these parolees when arrested and sent back to prison literally laughed at the law enforcement officers, -- confident that they would soon be released again.

The Sheriff of Ventura County commented that some judges have assumed the position of social welfare workers.

Sheriff Pitchess stated that it was apparent from listening to Mr. Binns that the great success in reducing the narcotics problem in Ohio was due to a combination of the firm attitude of the courts in dealing with narcotics law violators and the certain penalties and laws which the courts scrupulously followed.

Sheriff Pitchess stated that law enforcement has been forced to recommend that some of the discretion of the courts be taken away because of the abuse of this discretion by some judges in their refusal to follow the law. Law enforcement was forced to recommend restrictions on the right of the court to strike prior convictions because of the practice of some judges in striking prior convictions on narcotics peddlers.

Sheriff Pitchess stated that the State Bar had recently passed a resolution to permit a judge to strike a prior conviction.

Sheriff Pitchess stated that he was in favor of giving back to the courts the discretion taken away by the Cahan and Priestly cases. The trial courts should have the discretion to decide if evidence should be admitted or excluded in the interests of justice or whether an informer's name should be revealed or not revealed.

The Project Director discussed the differences in attitude between the courts of Michigan and Ohio concerning the new penalty provisions in each state. In Michigan there is no probation or suspension of sentence, nor parole. As a result the courts are reluctant to follow the law and force prosecutors to take pleas to lesser offenses to get around what they consider the harshness of the law. In addition in cases where a jury has convicted a defendant of selling narcotics, where the judge feels that a 20-year minimum sentence is excessive, he may grant a motion for a new trial several years after the defendant has gone to prison. In two recent cases such a motion was granted

on the grounds of cruel and unusual punishment. In Ohio, on the other hand, probation and suspension of sentence are available for the occasional hardship case; in addition, parole is available in Ohio as contrasted to Michigan.

Sheriff Tibbs stated that he felt that some law enforcement officers on the local level were victims of the "big-man-in-the-castle" philosophy. He stated that in his experience he had turned over to the state bureau of narcotics enforcement, at their request, evidence concerning peddlers who were dealing on a large scale, only to have raids conducted in the county without notice to his office.

Sheriff Candlis stated there was poor communication concerning narcotics information on all levels.

Mr. Neeb stated that it would be his recommendation to the Commission that there be a permanent State Coordinating Commission for the processing of narcotics information.

Mr. Kimball stated that the Commission had found that the Adult Authority was not investigating or contacting law enforcement agencies before releasing a prisoner. Instead, the Adult Authority was relying on information from the defendant and his relatives.

Mr. Binns stated that an Adult Authority representative had stated that information received from Police agencies concerning a defendant's criminal activities was investigated by asking the defendant if such charges were true. Upon his denial the matter would be closed.

Mr. Binns stated that the Superior Court judges in Los Angeles had stated that the probation department had claimed that they had not received full cooperation from law enforcement agencies concerning the full criminal involvement and background of individuals they were investigating.

Mr. Binns stated that he did not feel that police officers' job ended with the arrest and the filing of a complaint. Instead this responsibility continued right up to the time of the sentence.

The Commission agreed to meet in Sacramento on November 16 to hear the views of Attorney General Stanley Mosk.

MINUTES OF THE MEETING
OF
THE SPECIAL STUDY COMMISSION ON NARCOTICS
SACRAMENTO, CALIFORNIA
NOVEMBER 15, 1960

TIME: 10:00 A.M.

PRESENT: Mr. Harry M. Kimball, Chairman
Mr. Walter S. Binns, Member
Chief A. E. Jansen, Member
Mr. John E. Storer, Member

Mr. Arthur L. Alarcon, Project Director

Honorable Stanley Mosk
Attorney General

Mr. Charles A. O'Brien
Chief Assistant Attorney General

Mr. Howard Jewel
Assistant Attorney General

Mr. Walter Dunbar, Deputy Director
Department of Corrections
(Representing, Richard A. McGee, Director
Department of Corrections)

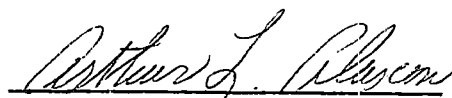
Mr. Charles Casey, Assistant to the Director
Department of Corrections

Mr. Roy Votaw, Assistant Director
Youth Authority
(Representing, Heman Stark, Director
Youth Authority)

The Commission met with Mr. Dunbar, who was representing Mr. McGee, and heard his views concerning the Commission's tentative recommendations. The Attorney General gave his views and recommendations concerning the narcotics problem in California.

The meeting was adjourned at 5:00 P.M.

Respectfully submitted,



Arthur L. Alarcon
Project Director

MINUTES OF THE MEETING
OF
THE SPECIAL STUDY COMMISSION ON NARCOTICS
SACRAMENTO, CALIFORNIA

NOVEMBER 16, 1960

TIME: 10:00

PRESENT: Mr. Harry M. Kimball, Chairman
Mr. Walter S. Binns
Chief A. E. Jansen
Mr. John E. Storer

Mr. Arthur L. Alarcon, Project Director

Honorable Stanley Mosk
Attorney General

Mr. Charles A. O'Brien
Chief Assistant Attorney General

Mr. Howard Jewel
Assistant Attorney General

Mr. Walter Dunbar, Deputy Director
Department of Corrections

Mr. Charles Casey, Assistant to the Director
Department of Corrections

Mr. Roy Votaw, Assistant Director
Youth Authority

Mr. Dunbar distributed to the Commission, copies of an administrative order reflecting policy and procedural changes with reference to the Narcotics Treatment Control Project. A summary of this administrative directive was also distributed.

Mr. Binns asked Mr. Dunbar if the job of the Department of Corrections in administering the Narcotics Treatment Control Project was hampered because of the California law making addiction a crime.

Mr. Dunbar stated that this was a very important problem. Part of the dilemma of the Department of Corrections in communicating its objectives in this project to law enforcement, arises from the law which makes addiction a crime. Mr. Dunbar stated that in the Narcotics Treatment Control Project, the objective was to establish control and treatment by 30 men case loads. It is hoped that with such small case loads, readdiction can be controlled and the need to resort to crimes against property in order to afford an expensive narcotics habit can be avoided.

Chairman Kimball asked Mr. Dunbar if these administrative changes were being instituted to stop the practice of sending persons back to the in-patient clinic at Chino two or three times before a parole is violated.

Mr. Dunbar replied that the administrative changes were promulgated as a reaction to three criticisms.

1. Parolees were being permitted to return to their homes after two or more consecutive positive "Nalline Tests".

2. Parolees were being returned to the in-patient clinic at Chino two or more times without a violation of parole.

3. Parolees were using narcotics between Nalline tests, because such tests were given once a week on a regular schedule.

These new procedural changes require that:

1. A parolee who is in the "experimental group" must be sent to the Chino unit on the first signs of addiction or on a first positive test.

2. A parolee cannot return to the in-patient clinic until after one year has elapsed from his first visit without special permission from the Adult Authority.

3. Nalline tests will be given once a week but on a staggered or irregular schedule. Surprise testing will be "increased".

Mr. Dunbar stated that the Department of Corrections had found that a parolee could use narcotics - "take jolts in between" - and "beat" the Nalline test because it was scheduled weekly on a regular basis. Mr. Dunbar pointed out that the original design or guide for the Narcotics Treatment Control Project provided for frequent tests and also surprise tests. It has been learned that, however, that this directive (requiring frequent and surprise

testing) was not being carried out, and, therefore, the Department of Corrections is now requiring a schedule of tests to be submitted in advance on a quarterly basis.

Chairman Kimball asked Mr. Dunbar if it was the intent of the Department of Corrections to eventually replace the present case load size with the 30 men case load being used in the Narcotics Treatment Control Project.

Mr. Dunbar replied before the N.T.C.P. program, there were about 70 men per case load. At the present time, outside of this special project, the case load is still about 70 men. Additional parole agents have been supplied to reduce the case load to about 30 men for this special project.

Chairman Kimball asked if it were true that the Nalline program were being extended to persons convicted of robbery, burglary and other crimes not directly connected with narcotics.

Mr. Dunbar stated that it was the present plan of the Department of Corrections to give Nalline tests to burglars, robbers and persons convicted of any crime who had a history of involvement with an opium derivative.

Mr. Storer asked if the case load of 30 included those persons who were in the treatment unit.

Mr. Dunbar replied that the case load of 30 did include the men in the unit.

Chairman Kimball asked Mr. Votaw if the Youth Authority was participating in the Narcotics Treatment Control Project and Nalline testing.

Mr. Votaw replied that the Youth Authority hoped to start Nalline testing in July, 1961.

Mr. Dunbar pointed out that the budget for the Narcotics Treatment Control Project was for adult males and females only. There was no budget for the Youth Authority in the Narcotics Treatment Control Project.

Chairman Kimball asked Attorney General Mosk to give the Commission the benefit of his ideas concerning the narcotics problem. Chairman Kimball asked the Attorney General whether it was wise to do away with Health and Safety Code section 11721, which makes addiction a crime.

Attorney General Mosk stated that the public temper is such at the present time, that no one can dare be accused of coddling narcotics addicts or peddlers, but that if a repeal of the crime of addiction were made a part of a package, it might be acceptable.

The Attorney General stated that the Commission's observations on Ohio were very revealing.

Attorney General Mosk said that he had had a staff meeting concerning narcotics, and that he was anxious to learn the Commission's recommendations. The Attorney General asked if the Commission's report was confidential.

Chairman Kimball replied that it would be up to the Governor to disclose or withhold the Commission's report.

Attorney General Mosk said that the conclusions of the Commission would be of considerable assistance to the Attorney General's office in preparing its recommendations. The Attorney General stated that he had an obligation to law enforcement, and, therefore, he might not be able to accept all of the Commission's recommendations.

General Mosk stated that he could not support an outright Cahan repealer, but that he felt that certain judicial extensions of the Cahan case were unwise. The Attorney General's office would probably go along with law enforcement.

General Mosk stated that if it can be demonstrated, increased penalties have had a good effect in Michigan, the Attorney General's office would be inclined to go along with whatever the Commission suggested. General Mosk stated that his inclination was to rely on the Commission's surveys and analysis as to penalties.

General Mosk stated that he and his staff believed that a fixed minimum is a good thing. He stated that he was opposed to any tampering with the indeterminate sentence law. However, when the law says five years to life, a prisoner should serve five years.

General Mosk stated to Mr. Dunbar that one thing that bothered the Department of Justice was the statement by the Department of Corrections that there are no major peddlers in prison. General Mosk stated that he did not believe that this statement was true. The Department of Corrections was using an improper test to decide who is or is not a major peddler. According to the Department of Corrections, the quantity seized by the policeman or the amount sold to an undercover agent determines whether the prisoner should be treated as a major peddler.

General Mosk stated that quantity is not a valid test for these reasons:

1. A narcotics peddler does not carry large amounts of narcotics on his person because of the obvious risks involved. However, he can easily go to his hiding place to supply any amount which may be requested.

2. Because of the limited budget for purchasing illegal narcotics for use as evidence, large purchases of heroin cannot be made by the Bureau of Narcotics Enforcement. The Department of Justice believes that it is better to get a large number of peddlers with a fixed amount of money by making small purchases, than a few peddlers by making large purchases.

Mr. Dunbar stated that if it is true that Ohio did run the peddlers out, wouldn't California, by adopting increased penalties, only succeed in running the peddlers out of California and dumping them on our sister states or Mexico. Mr. Dunbar asked if we should not have a "social consciousness" which would preclude us from forcing peddlers out of our state on to our neighbors.

Chief Jansen replied by stating that he had a responsibility to the people of San Diego. If he were successful in chasing narcotics peddlers or any other criminals out of San Diego, he would be fulfilling his responsibility, and if these criminals were to go to Nevada, it would be Nevada's responsibility to protect its own citizens.

Mr. Jewel of the Attorney General's office asked if tough laws with a fixed minimum sentence would have the effect of causing lenient judges to sentence a man to the county jail or place him on probation, rather than send him to the state prison, because the choice for the judge would be so extreme.

Mr. Dunbar asked if the Commission felt that prisoners were being released too soon, what criteria would the Commission suggest in determining when a prisoner should be released.

Mr. O'Brien of the Attorney General's Office commented that the Department of Corrections was not giving sufficient consideration in fixing prison terms to the deterrent effect of a long period of incarceration and the protection afforded to society by a long prison term in terms of isolation or quarantine.

Mr. Storer stated that California would not eliminate its narcotics problem until everyone, including the Adult Authority and the Courts, took the narcotics problem seriously. The Department of Corrections was operating under an erroneous or mistaken concept concerning the addicts who were sent to state prison. Mr. Storer stated that there is not one person in prison for addiction. The former addicts in prison were sent there for peddling narcotics or for other crimes, not for being addicts. The Department of Corrections should punish a prisoner for the crime for which he was sentenced, and not spend all its time and energy being

concerned with the fact that the prisoner was a former addict.

Mr. Storer stated that one of the factors behind the early releasing policies of the Adult Authority might be the fact that addiction is treated as a crime in California which is opposed to the philosophy of the Department of Corrections that addiction should be treated as an illness and not as a crime.

Mr. Storer stated that if California were to eliminate addiction as a crime and open up the state hospitals to the addict and encourage him to come in for treatment and at the same time advise the addict that if he possesses or peddles narcotics, he would go to prison, we might effectively eliminate the narcotics problem. At the present time in California, there are potentially as many peddlers as there are addicts. Heroin is now worth ten times the price of an ounce of gold and it is much easier to obtain than the mining of gold.

Mr. Binns stated that in Ohio and New York, it was a crime to possess narcotics for sale. Under this law, evidence of past association and narcotics activities was admissible as proof the intent for which the narcotics were possessed.

Mr. O'Brien of the Attorney General's Office stated that he believed that the possession for sale as a crime was excellent legislation in California.

Mr. Casey asked if it were not possible to accomplish the same objective of increasing the period of incarceration by making the punishment for sale, 15 years to life, but not repeal the law which makes a prisoner eligible for probation in 1/3 of the minimum time to be served. Mr. Casey stated that by eliminating the 1/3 of the minimum time served on parole, the Commission would be tampering with the indeterminate law.

General Mosk stated that a removal of the 1/3 of the minimum time served rule, for eligibility for parole, would not tamper with the indeterminate sentence law. The Adult Authority would still have the right to set an indeterminate term between five years and life, in the case of peddling for example.

Mr. O'Brien stated one of the criticisms of the Department of Justice was that the Department of Corrections was aiming at a 100% record of cure among parolees. However, many of these former addicts cannot be cured. Mr. O'Brien stated that the Department of Corrections in considering 100% cure, might be missing out by not treating the 40% or 50% who could be cured.

Mr. Jewel of the Attorney General's Office stated that the present punishment laws were adequate, and if the Adult Authority were to release peddlers after five years, there would be no need to change the law.

Mr. Casey stated that there would be no assurance that the Adult Authority would not change its policy and go back to releasing narcotics peddlers in two or three years.

Mr. Binns stated that the Commission had found that some counties did not use search warrants. Other counties had overcome the major objection to the search warrant by instituting procedures which permitted a search warrant to be issued in less than one hour. Mr. O'Brien stated that if an officer is armed with a search warrant, he felt that the appellate courts would be more inclined to validate the search and the officer's conduct. Mr. O'Brien stated that he felt that if an officer used a search warrant, then the evidence should be admissible.

General Mosk stated that he was inclined to go along with the Commission's tentative proposal to recommend the adoption of the Michigan exception to the exclusionary rule. The automobile should not be surrounded with the same sanctity that surrounds the home. General Mosk stated that the "night-time" search warrants should be eliminated.

General Mosk stated that in order to sell the importance of getting tough with narcotics law violators and treating of the narcotics law as serious offenses, it might be a good idea to ask the California Conference of Judges to permit a panel discussion on this subject at its next conference in September, 1961.

General Mosk stated that he felt it might be wise to consider a law which would make it mandatory for police agencies to furnish full information to the Adult Authority concerning the background of a narcotics law violator. General Mosk said that he felt it was unfair for any law enforcement agency to refuse to furnish police reports to the Adult Authority and then to criticize the Adult Authority on its early releasing policies.

Mr. Dunbar asked Chairman Kimball if the Commission was going to attend or to send a report to the Board of Corrections for its December 2 meeting.

Chairman Kimball advised Mr. Dunbar that the Commission was in a process of preparing its special interim report for the Governor, and would be unable to attend this meeting. The report itself would not be ready for distribution until the Governor gave his approval. Chairman Kimball told Mr. Dunbar that after the Commission's special interim report for the Governor was completed, the Commission would


be pleased to meet with the Board of Corrections.

Chairman Kimball asked Mr. Dunbar to make an oral report to Director McGee and the Board of Corrections concerning the meeting of November 16 and the tentative findings of the Commission which were reviewed in his presence.

Distribution:

1 copy to each member

Respectfully submitted,


Arthur L. Alarcon
Project Director

ALA:ssc

MINUTES OF THE MEETING
OF
SPECIAL STUDY COMMISSION ON NARCOTICS
LOS ANGELES, CALIFORNIA

DECEMBER 2, DECEMBER 3, AND DECEMBER 4, 1960

TIME: 10:00 A.M.

PRESENT: Mr. Harry M. Kimball, Chairman
Mr. Walter S. Binno, Member
Chief A. E. Jensen, Member
Mr. John E. Storer, Member
Mr. Robert A. Nesb, Jr., Member

Mr. Arthur L. Alarcon, Project Director

The Commission met for three days to draft a special interim report as requested by Governor Brown on May 4, 1960.

The Commission adjourned each day at 5:00 P.M.

Respectfully submitted,

Arthur L. Alarcon
Project Director

ALA:SSC

MINUTES OF THE MEETING
OF
THE SPECIAL COMMISSION ON NARCOTICS
LOS ANGELES, CALIFORNIA

DECEMBER 9, 1960

TIME: 10:00 A.M.

PRESENT: Mr. Harry M. Kimball, Chairman
Mr. Walter Sinns, Member
Mr. Robert A. Neeb, Jr., Member
Chief A. E. Jansen, Member
Mr. John Storax, Member

Mr. Arthur L. Alarcon, Project Director

The Commission met with Governor Brown to explain to the press the nature of the Commission's recommendations.

The meeting was adjourned at 4:00 P.M.

Respectfully submitted,

Arthur L. Alarcon
Project Director

ALA:SSC

Ron Beattie, Chief, Bureau of Criminal Statistics	September 14, 1960
Dr. Daniel Blain, Director, Department of Mental Hygiene	September 14, 1960
Manley J. Bowler, Chief Deputy District Attorney, Los Angeles County	September 21, 1960
Hon. Edmund G. Brown, Governor	May 14, 1960
Louis H. Burke, Presiding Judge, Los Angeles County Superior Court	July 20, 1960
Charles Casey, Assistant to the Director, Department of Corrections	November 16, 1960
Leigh Denning, Legal Counsel, Department of Mental Hygiene	September 14, 1960
Lewis Drucker, Judge of the Superior Court, Representing the Los Angeles County Superior Court	July 20, 1960
Walter Dunbar, Deputy Director, Department of Corrections	November 16, 1960
Fred Fimbres, Chief of Administration, Los Angeles County Sheriff's Office	September 21, 1960
Dr. Mark Gerstle, Chief Psychiatrist, Youth Authority	September 14, 1960
Albert E. Hederman, Assistant District Attorney, County of Alameda	August 31, 1960
Charles Hurley, M.D.	September 21, 1960
Howard Jewel, Assistant Attorney General	November 16, 1960
Gerald C. Kepple, Representing the Municipal Court, Los Angeles Judicial District	July 20, 1960
Stuart Knox, M.D., Representing the California Medical Association	July 20, 1960
Dr. Daniel Lieberman, Chief Deputy Director, Department of Mental Hygiene	September 14, 1960
Thomas C. Lynch, District Attorney, City and County of San Francisco	August 31, 1960

William H. Madden, Captain, Los Angeles Police Department	September 21, 1960
William B. McKesson, District Attorney, Los Angeles County	September 21, 1960
Hon. Stanley Mosk, Attorney General	November 16, 1960
Charles A. O'Brien, Chief Assistant Attorney General	November 16, 1960
William O'Keefe, Lieutenant, Los Angeles County Sheriff's Office	September 21, 1960
James Park, Supervisor of Inmate Classifi- cation, Department of Corrections	September 14, 1960
William H. Parker, Chief of Police, City of Los Angeles	September 21, 1960
Peter J. Pitchess, Sheriff, Los Angeles County	September 21, 1960
Cecil Poole, Clemency and Extradition Secretary to Governor Brown	May 4, 1960
Dr. Robert T. Ross, Chief Research Psychologist, Department of Mental Hygiene	September 14, 1960
A. Lamont Smith, D.P.A., Executive Director Board of Corrections	May 4, 1960
Joseph Spangler, Administrative Assistant Adult Authority	September 14, 1960
Roy Votaw, Assistant Director, Youth Authority	November 16, 1960
Colonel George White, Federal Bureau of Narcotics	August 31, 1960